My Ancestors, My Descendants and I

by

JOHN E. BIBY

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The cover on this book is made from cloth used by the Kirkpatricks to make their tartans. It was purchased from Romanes and Paterson, 62 Princess Street, Edinburgh 2, Scotland.

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FOREWORD

In the Biby family ancestry set forth in Book One, I have narrated a number of events from my life's history. I have done so primarily that my descendants may better know their ancestor.

From these events, I hope they may envision a normal, healthy youth, full of life, who when he attained manhood was ambitious to succeed, raise a family, become a useful citizen, and win public approval, and that he succeeded, despite financial handicaps, by dint of hard work.

If my descendants do visualize this picture of their ancestor, I will think my life has been worthwhile and my remaining days will be made happy by this thought.

ACKNOWLEDGMENTS

This book would not have been written had it not been for the inspiration given to me by my cousin, William A. Biby who, over a period of many years, has diligently searched many records in Virginia, Washington, D. C., and in England.

He has given me copies of documents of record and photographs, many of which are set forth herein.

My cousin, E. Spears McColough, 1612 Forest Avenue, Knoxville, Tennessee, has sent me many papers and photographs, some of which are set forth herein.

I am greatly indebted to the Los Angeles Public Library and particularly to Miss Barret, who for many years has been in charge of the genealogy department of the library. She gave me much assistance by placing many books of genealogy on the desk where I worked in the library while doing research work on the genealogies set forth in this book.

Lastly, to my dear wife, to whom I owe much for her persistent urging me to begin writing this book.

CONTENTS

BOOK ONE

Biby Family

1. My Immediate Family
2. My Early Life
3. Father and Mother
4. Grandfather and Grandmother Biby
5. Grandfather and Grandmother Gassaway
6. School Days
7. Public School Teacher
8. Sports and Hobbies
9. Professional Life
10. Public Service
11. Family Life
12. Genealogy

BOOK TWO

Kirkpatrick Family

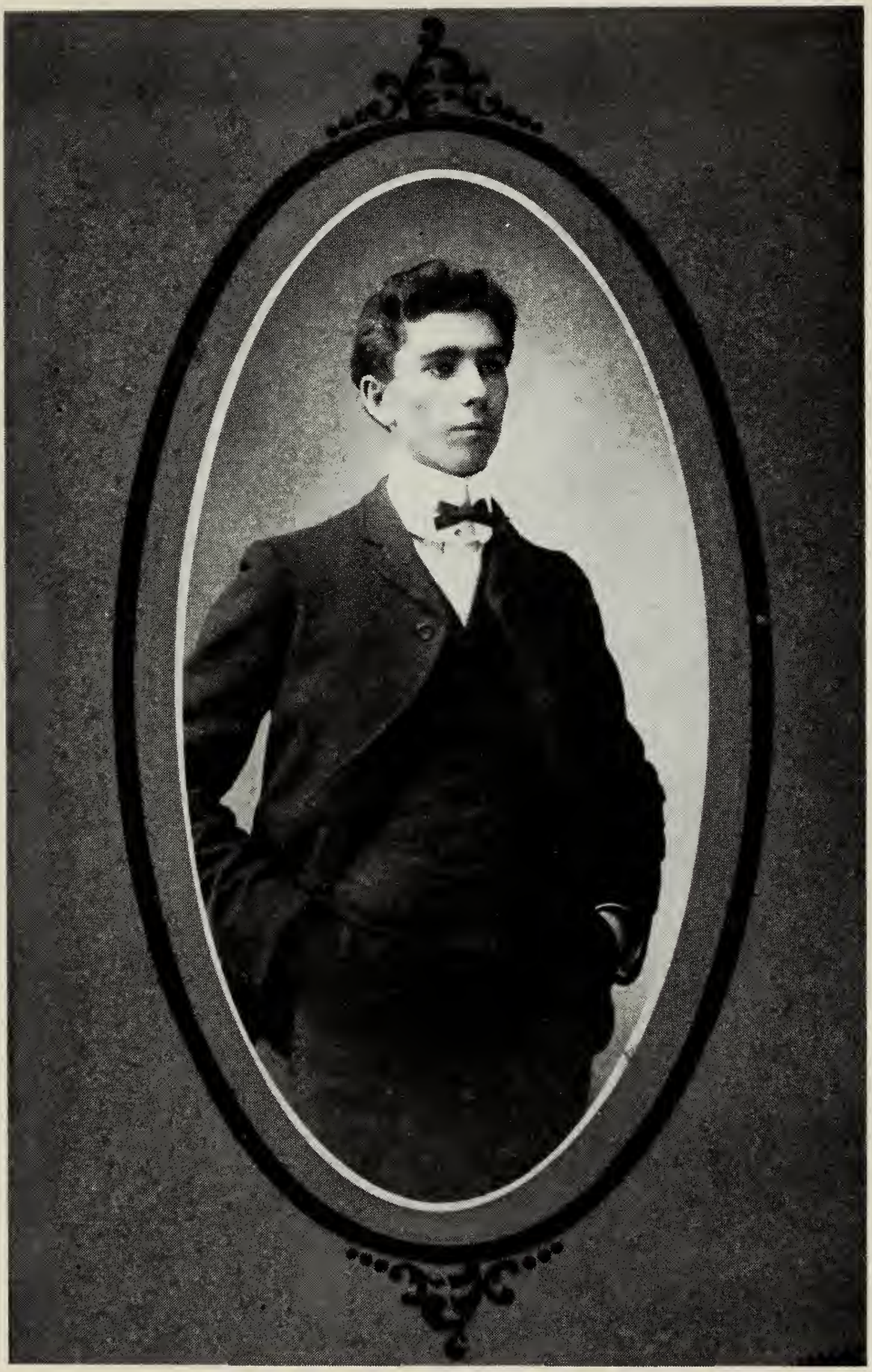
1. Early American Families
2. Sir Roger Kirkpatrick
3. Genealogy

BOOK THREE

Mulkey Family

1. American Line
2. Genealogy
3. Will of Philip Mulkey

BOOK ONE



The author, age twenty-one

CHAPTER I

My Immediate Family

My father was John Caswell Biby (1852-1934) a descendant of the Caswells of Virginia.

My mother was Laura Butler Gassaway (1853-1932).

They were married at Galatia, Illinois, December 26, 1876.

I have two brothers and two sisters — Martha Caroline, (Mattie) deceased, Mary Alice, who lives in Coolidge, Arizona, Frederick Alexander, who lives in Pinckneyville, Illinois, and Harry, an attorney, who lives in San Marino, California.

I was born at Carbondale, Illinois, on June 20, 1882.

My sister Alice, after graduating from the Pinckneyville High School, taught school for one year and then enrolled as a student in the school conducted by the Southern Baptist Church at Nashville, Tennessee. After graduating from this school, she was employed as a Sunday School missionary by the church. Her duties took her into all the Southern states from Virginia to Oklahoma.

She organized and taught classes of Sunday School workers in all the cities she visited. This work, travelling on trains, and eating at irregular hours, broke her health and she had to give it up. She was then employed by the church to work in its home office at Nashville, where she spent many years. While engaged in this work, she contracted arthritis and was compelled to resign.

She moved to Coolidge, Arizona, in 1948. She resides in a bungalow across the street from the Baptist church. She established the Mary Alice Biby library

in this church. It now has more than three thousand volumes contributed by her friends.

She is under the care of Dr. Holbrook of Tucson. He worked with the Mayo Brothers in developing cortisone for treating arthritis. He used Alice as a guinea pig in carrying on experiments. His treatments of Alice have been a remarkable success and she is now an arrested case.

She has devoted her life to Christian work and if golden crowns are worn in heaven, she will wear one.

CHAPTER II

My Early Days

I distinctly remember many events in my early days. Some of the more eventful were the days my Mother took my sister, Mattie and me to visit with Grandfather and Grandmother Gassaway who lived in Galatia. When I was three years old, we made a visit there. I was thrilled when she told me we were to go on a train as I had never ridden on one.

Grandfather's house was a one-story building with a long sloping roof in the rear which connected with a fence. By climbing to the top of this fence, I could get up on the roof. I had noticed that the chimneys of many residences near Grandfather's house were covered with boards and held there by bricks, laid on them to keep the wind from blowing them off. I noticed Grandfather's kitchen chimney was not so covered and I thought Grandfather had forgotten to do so. I considered it should be, and that I would be doing Grandfather a favor if I covered it. I found boards and bricks and, with these, I mounted to the roof by way of the fence. I covered the chimney and weighted the board with the bricks. This chimney now appeared, as did the other roofs I had seen, covered with boards. I climbed down and went about my play, happy with the thought of a deed well-done.

As supper grew near, Grandmother lighted a fire in the kitchen stove. Soon the kitchen was filled with smoke. Grandmother was unable to determine why the smoke did not go out through the chimney as usual. She called Mother, who immediately thought of her small son. She went outside, saw the boards

covering the chimney and I heard her call "Johnnie." I answered her call and she told me to climb up on the roof and remove the boards from the top of the chimney. When I got off the roof, she asked me if I had put the boards over the chimney. I told her I had and explained that when I saw so many other chimneys on roofs nearby covered with boards, I thought Grandfather had forgotten to cover this one and I did it to help him.

That night at the supper table, Mother told Grandfather what I had done and why. He appreciated my good intentions and laughed heartily, as did the other members of the family who were at the table. Grandfather thought my prank was a good joke and I was not punished.

One day when I was playing in Grandfather's barn, I saw a peculiar-looking thing fastened to the barn wall by an iron chain. It had two open jaws and between them was a small piece of cheese. My curiosity was aroused and I began to investigate. When I touched the cheese, the thing I was investigating suddenly closed tightly with my finger caught between the two iron jaws. I could not get it out and, as it was chained to the wall, I could not run to Mother for help. I yelled loudly for her, she released my finger, which was badly cut. I told her how I happened to get caught. She explained the thing I had examined was a trap Grandfather had baited with cheese to catch rats, which lived in the barn and that he had chained it to the wall to prevent the rat, which had been caught, from running away with the trap. I did not investigate any more rat traps.

One day Mother took Mattie and me to visit overnight with her brother, Frank, who lived at Grandfather's farm about one mile north of Galatia. Bathrooms were unknown in those days and when my bedtime came, Mother told me to go out to the orchard near the house. I was much afraid of the dark but I went. When I got outside I heard a voice saying, "Who, Who, who are you." I let out a yell easily

heard within the house and ran for Mother. Uncle Frank, his wife, Aunt Mary, and Mother met me at the door anxious to know what had happened. I told them a man said to me "Who are you," and I thought he intended to take me away. They laughed heartily and Mother explained to me, the "man" I had heard was a hoot owl. She took me on her lap and I was soon asleep, and did not hear any more hoot owls.

On another visit we made to Mother's parents, Father filled the bed of his one-horse wagon with straw and put a quilt over it. He and Mother sat on the seat and Mattie, Fred, who was then three years old, and I sat in the rear. Fred frequently asked for a drink of water, which Mother gave him. After he had requested a drink of water many times, he said: "I want to go home and get a drink." Mother took him on her lap, gave him a glass of milk and he was soon asleep. When he awakened, he was rested and had forgotten about wanting to go home for a drink.

The drive to Galatia took two days. We stopped at the farm homes of Uncle Frank and Aunt Jane Karnes. Aunt Jane was Grandmother Gassaway's sister. Uncle Frank's farm was near Herrin, Illinois, and he raised wheat, corn, large fields of timothy hay and apples. There was a small handcranked machine for making apple cider. One of my great pleasures was to crank this machine while Uncle Frank poured apples into it, where they were ground to a pulp, the juice running out and flowing into a bucket. My small boy appetite was not satisfied until I had drunk several glasses.

Uncle Frank had a son, Edd, who lived with us one winter at Carterville. Mattie and I called him Cousin Edd. He often entertained us with bedtime stories about bears. One time, as I sat on his knee, he related a thriller about a bear chasing him. He said he ran as fast as he could, screaming loudly for help, but no one came to help him, and then just as he got to the place where the bear was about to grab him and

crush him in its paws, he let his voice drop to a whisper, so low I could not understand what he said. Very much excited, I said: "What did you say, Cousin Edd." He replied: "I said a turkey." Many times I heard this reply when I asked him to repeat any part of the story he was telling. "I said a turkey" was a common expression in our home for a long time after Cousin Edd's visit.

When I was a small lad, I was not much interested in church services but I did like to go out at night and play with the boys. One Sunday night, I asked Father if I could go to church with my chum, Roscoe Squires. Father was not sure but what I was using a visit to the church to go out and play. He said I might go but that when the service was over, I was to come straight home. He further said when you return I want you to tell me the preacher's text. When the preacher finished his long opening prayer, a number in his audience showed their approval by loudly saying: "Amen, Amen."

These expressions of approval started Roscoe and me laughing. We were seated on a long seat by ourselves. We did not want to be seen laughing in church, so we lay down on the bench where we could not be seen. We covered our mouths with our hands until we could stop laughing. I did not enjoy the sermon. When the service adjourned, I went directly home. Father asked me what the preacher talked about. I gave him the name of the book of the Bible from which the preacher read his text and also the text. Father said: "I know now you went to church and I hope you will go often."

CHAPTER III

Father and Mother

Father and Mother were married at Galatia on December 26, 1876. They first met at Galatia. Father was construction foreman for the Illinois Central Railroad and was engaged in building a railroad from Pinckneyville to Shawneetown. This railroad passed through Galatia. It was completed before they were married. The first train to run over this road had as its passengers several Illinois Central officers and prominent citizens who lived in the towns through which the railroad passed. Father invited Mother to be his guest on this train. She was the only lady on it.

After their marriage, they moved to Carbondale, Illinois. There my sister, Mattie, and I were born.

Mother had a negro woman to assist her in managing the household and caring for Mattie and me. This woman unexpectedly left her job, taking with her, Mother's wedding dress, wedding ring and other trinkets that she desired. Mother never heard of her again and none of the stolen articles were recovered. The story of this theft so impressed me that I have had little use for colored domestics throughout my life.

When I was six months old, they moved to Carterville, Illinois. This was a small coal mining town, 10 miles from Carbondale. We resided here until I was 11 years old. At Carterville, Father purchased his first home. It was a cottage with three large rooms to which he added another bedroom.

The dining room and kitchen were one large room.

Mattie and I slept in one bedroom and Father and Mother in the other. One night, I became a sleep walker. I arose from my bed, went to the kitchen, got a large biscuit and went out and sat on the sidewalk in front of our house with my feet dangling over the ditch next to the walk. A neighbor, returning to his home, found me and carried me into the house where Mother put me to bed again. I never awakened until morning. I was much surprised when Mother told me of my escapade and I could hardly believe it. Another time, I arose from my bed while asleep, dressed myself completely and got back into bed where I slept until morning when I awoke and found myself fully dressed. I knew I had again walked in my sleep.

Father and Mother enjoyed having company. In the summer time, invited friends with their children would visit them. Refreshments were either watermelon or ice cream and cake. We had our own rich milk from our Jersey cow. Mother would fill a crock with milk and, from standing, a heavy layer of cream would form on the top of it. Mother used this cream in making ice cream. Home ice cream freezers were unknown in those days. We made it by using a large wooden candy bucket. Mother made the ice cream mixture of cream, eggs laid by our hens, sugar and flavor. This mixture was poured into a long narrow pail, commonly used to hang in the cistern filled with milk to keep it cool and to prevent it from souring. The pail was then placed in the candy bucket and cracked ice was put around it. It was my job to take hold of the handle of the pail and turn it in half circles until the mixture was frozen. I have never eaten better ice cream than this homemade cream. My youthful appetite was not satisfied until I was forced to stop eating it by a severe headache brought on by the cold ice cream. Our watermelon parties were also enjoyable. Father would buy a large watermelon which was placed in a flour sack and hung in the cistern to chill.

We always filled the cistern each winter with snow which did not melt until late summer. A hole was made through the snow so we could draw the water for domestic use from below it.

During the long winter evenings when friends called with their children, the adults sat in the living room and talked. We children were given the kitchen where we made popcorn balls and molasses candy. The popcorn, which we grew, was shelled off the cob, placed in a large black skillet with a lid over it and then placed on the coal-burner kitchen stove to pop. After popping, it was put into a large pail and the mixture of heated molasses and water poured over it. From this, we made large popcorn balls and served the adults and ourselves. We made candy from molasses which Father purchased from a farmer who raised the cane and made the molasses. We boiled the molasses, added cream of tartar, and then boiled the mixture until it thickened. We set it in a pan of water until it was cold enough to pull. As the pulling progressed, the candy began to form into long rope-like strings which we pulled until it was too stiff to pull any more; it was then a beautiful light yellow color. We cut the long strings of taffy into small pieces, and it was ready to eat. Both adults and children enjoyed it.

When Harry was a small boy, Mother heard him crying. She went to him and asked him what he wanted. He said: "I want my Mamma." She replied, "I am here." He said: "I don't want you. I want my Johnny Mamma." I guess Mother did not tell this to the "gang" or I would have been called "Mamma."

Practically all families in Carterville canned a goodly supply of peaches each summer. Mother canned about two hundred fifty quarts each year. Her idea in canning so many was her fear the peach crop might fail and she wanted to have enough on hand to feed the family if and when there was such a failure of the crop. I never knew the crop to fail, although some years it was greatly diminished.

Peeling the peaches was an arduous task. The women, who planned to can peaches, decided they would meet at their respective homes and help one another peel the peaches to be canned, sometimes as much as fifteen bushels.

These meetings were made social events and when the job was almost completed, the husbands would join the group and share in the refreshments.

Manufactured carpets were practically unknown in Carterville when I lived there. The floors of most homes were covered with hand-loom woven carpeting. To make these carpets, old dresses, shirts and other cloth were torn into strips and sewn together. My job was to wind the strips into balls.

When enough were on hand to make a carpet, the balls and twine used in weaving were taken to "Grandma" Henry's home. She was the only person in Carterville who owned a carpet loom. She was paid ten cents per square yard for weaving.

The rags were dyed in colors suitable to the housewife whose carpet was to be woven. These carpets were beautiful. Before laying them, wheat straw was spread over the floor, the carpet laid upon it, and drawn tightly and tacked to the floor on all four sides.

At the annual spring housecleaning, these carpets were taken up, hung on the clothes line to air. While so hanging, any spots were removed with turpentine. Before re-laying, the old straw was removed and burned, fresh straw was spread over the floor and over this the refreshed carpet was laid.

I recently purchased a bedroom rug as nearly like those hand-loom woven rugs as I could find. It was specially woven for me in San Francisco. It is very appropriate with the Colonial furniture in the room.

Mother was a natural born doctor, if there were ever any such doctors. She was frequently called by neighbors and friends when there was illness in the family. She was a good nurse and compounded medicine from herbs and other ingredients.

Every spring she would dose her children with

sarsaparilla tea. This was made by boiling sarsaparilla root for several hours. It was very bitter and made my face wry when I swallowed it. I did not think I would die if I did not take it. When it was time for my medicine, I told Mother I did not want her to see me when I took it as I made an ugly face. Instead of swallowing my tea, I threw it on the ground, came back looking as glum as I could and apparently got along just as well as my sister, who swallowed her dose.

When Mother was a young lady, she gained a reputation for fancy horseback riding. One year she rode in an exhibition of fancy riding by ladies at the Saline County Fair. She was adjudged the best rider and presented with a silver-studded side saddle.

Our next-door neighbors on the East were named Bandy. They had a daughter, Gertrude, and a red-headed son, Leonard. Before we were three years old, Gertrude and I spent many happy hours making mud pies and passing them to each other through the pickets.

I must have inherited Mother's doctoring instincts. In those days, housecleaning was done every spring. Mother and Mrs. Bandy helped each other. Carpets were removed, hung on a clothesline, dusted by beating with a paddle and then spread in the yard to sun. Beds were stripped of all bed clothing which were hung outside to air. The beds were taken apart and carbolic acid used to prevent the bedbugs.

One spring day when Mrs. Bandy was cleaning house, Gertrude, Leonard, my older sister, Mattie, and I decided to play house. I suggested they pretend to be sick and I would be the doctor.

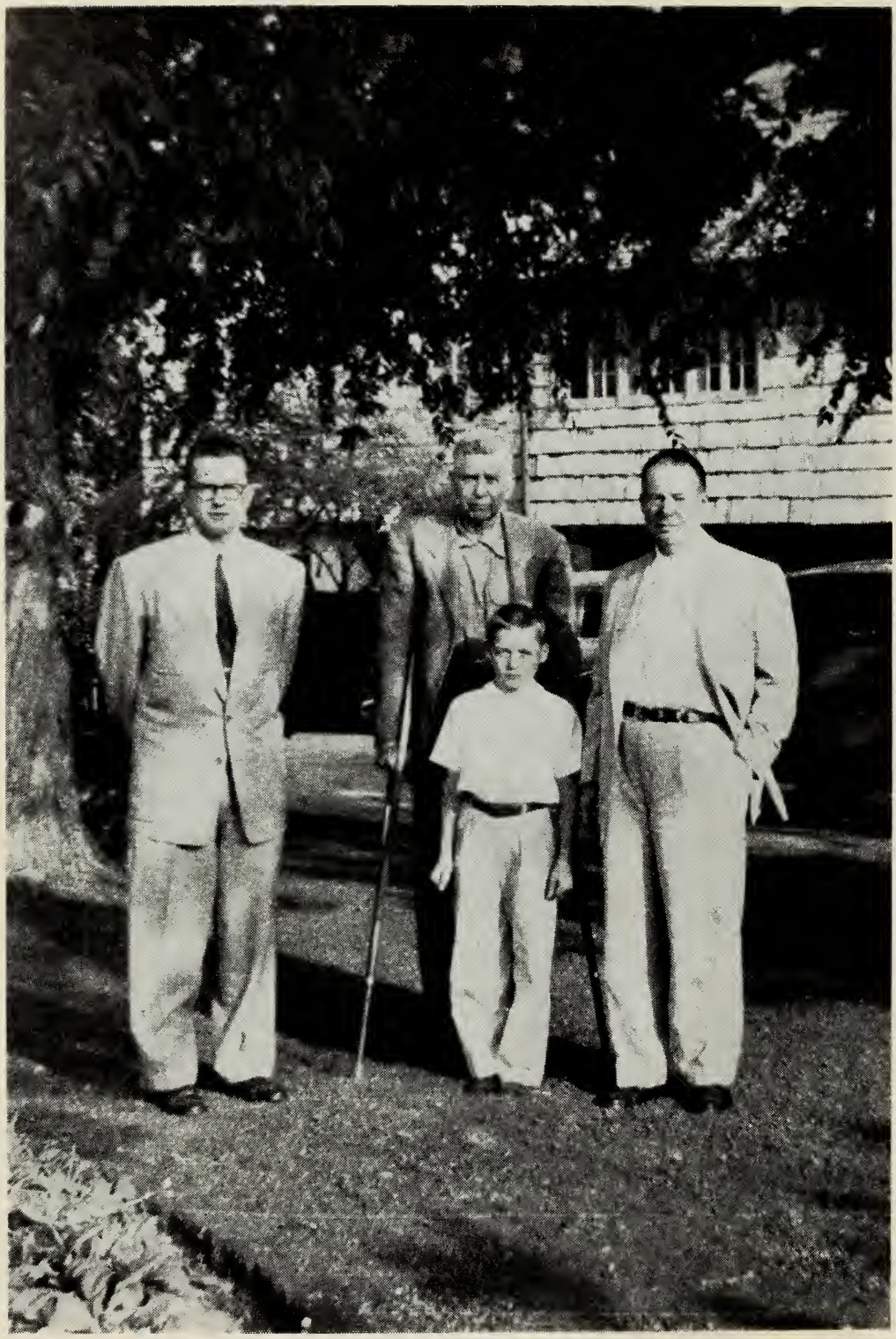
They did so and went to bed on the carpet spread on the ground. I asked them to put out their tongues, at which I looked intently, and then told them I would have to use a medicine on their bodies and for each to turn face down on the carpet. They did so. I then got the carbolic acid and a feather Mrs. Bandy had been using to apply the acid. With this

feather, I painted "my patients" from their knees to their shoulders with the acid. Soon loud wails were being emitted by the "sick" children. Mrs. Bandy and Mother appeared much alarmed. They took charge. The "doctor" was in the "dog house." The three patients were given cherry pie by Mother. Years later, I visited Leonard and Gertie and we had a hearty laugh over this experience.

The Bandys took their orphaned grandson, Benjamin, to raise when he was about four years old. He was frequently ill and Mother would take him gingerbread and cherry pie, in the making of which she had no peer.

One time when Benny was ill, he asked his grandmother for a piece of cherry pie. Mrs. Bandy went to the kitchen, split a cold biscuit, placed a few cooked cherries between the slices and gave them to Benny. He said: "I don't like this pie. I want cherry pie like Mrs. Biby makes." About this time, Mother visited Benny and Mrs. Bandy told her what Benny had just said about the cherry pie. Mother went home and brought him a slice of her cherry pie. Benny ate it and enjoyed it very much. Mother considered this statement of Benny's the nicest compliment she had ever received.

Alexander Green Biby



The four living John Bibys

CHAPTER IV

Grandfather and Grandmother Biby

Grandfather, Alexander Greene Biby, was born in North Carolina, March 27, 1827. He married Ruth Mulkey Kirkpatrick at Mulkeytown, Illinois, in 1849. They had five children, James Alexander, John Caswell, Elbert Wilson, Sarah and Julius Alphonse.

Grandfather served four years in the Civil War, in the 13th Illinois Cavalry.

Grandfather always wore a beard and was six feet tall, as was each of his sons. A Methodist circuit rider, he made monthly trips on horseback over his circuit and was paid no cash for his services; his sole compensation was gifts from persons who heard his sermons. He preached in the home of some Methodist and when a member of his audience noticed the seat of his trousers had worn thin or his boots were worn, on his next trip, he would be presented with a new pair of homespun trousers or a new pair of boots with a supply of home-knit socks.

Grandfather was a renowned deer and squirrel hunter. He made annual trips in his wagon drawn by two horses to Arkansas for a deer hunt. He seldom returned without a deer.

Most hunters shot squirrels with a shotgun. When they shot one, its body was riddled with small shot. Grandfather spurned such use of a shotgun. He always used a rifle and would not shoot at a squirrel if he could not see its head. When a squirrel he had shot dropped to the ground, it was always found that the rifle bullet had passed through its head. He had three very heavy muzzle-loading rifles and he molded the bullets he used.

His principal squirrel hunting grounds, when I lived at Carterville, were the big muddy creek bottoms. He drove there in the same double team wagon. He was often accompanied by father, and Vince Walker, a friend of father's. His son and I were permited to go with them and carry the squirrels they shot. The squirrels were found in hickory trees and as we quietly approached a tree, we could hear one gnawing a nut. Squirrels seemed to know when they were in danger and always heard a hunter's approach. I would move around the tree, keeping the body of the tree between it and grandfather, who would stand still and direct me to walk around the tree. As I did so, the squirrel would move around the body of the tree, until it came into Grandfather's view and then he shot it.

Grandmother loved her home and devoted her life to the welfare of her husband and children. She was an excellent cook. I enjoyed the meals she cooked when, as a lad, I visited with her and Grandfather. When her first child was born, Grandfather gave her the small rocking chair I will mention again in Chapter VIII. Sitting in this chair, she nursed each of her five children, and continued to use it until her death.

She died at Pinckneyville in 1893. She is buried beside Grandfather in the Biby family plot in the Pinckneyville cemetery.

Several years after Grandmother died, he married an elderly widow, who had lived at Tamaroa, Illinois, for many years in a small home she owned. There Grandfather resided with her. She had a cat which Grandfather trained to play dead, turn over, stand on its hind legs and many other tricks. He would hide his handkerchief in the bedroom and then return to the living room and tell the cat to find it. Soon the cat returned with the handkerchief in its mouth.

Tamaroa was a village of about five hundred inhabitants. Grandfather did not like to live there and

asked his wife to move to Pinckneyville. She declined to move and Grandfather left her and came to live with us in Pinckneyville. After a short time with us, he decided he wanted to go to Los Angeles and live with Aunt Sarah. After he had been there a short time, he told Aunt Sarah he was going to visit the Soldiers' Home at Sawtelle and might decide to live there. The home was about twenty miles from where Aunt Sarah lived. Early one morning he left for Sawtelle. He walked all the way. His visit was only for a few hours. He did not like the Home, and walked back to Aunt Sarah's where he arived in time for dinner.

California did not attract him and he returned to Pinckneyville, where he again made his home with us.

He never ate any bread, except cornbread, made with coarsely ground cornmeal, salt and water. Mother never failed to bake cornbread for him three times each day.

When Mother set her table, she always turned the plates upside down and placed a napkin on top of each. The name of the manufacturer of the plates was on the back of each. Grandfather never failed to express thanks to God before each meal. When I was a small boy, I was very curious about this habit of Grandfather's. I noticed as he expressed his thanks to God, he seemed to be reading the bottom of his plate. Once, when he had finished, I asked him why he read from his plate before each meal. He explained to me, he was not reading his plate and that he was telling God how thankful he was for all the gifts He gave him. This made a lasting impression on me and since my first marriage, I daily express thanks to God for his bounties.

At the time of his death, Grandfather was eighty-five years old. He never wore glasses and he could read fine print at the time of his death.

CHAPTER V

Grandfather and Grandmother Gassaway

Grandfather Gassaway, in addition to farming, was also engaged in conducting taverns. His first one was midway between St. Louis and Shawneetown. Commercial salesmen or drummers, as they were called, always made Grandfather's place, called the Halfway House, their stopping place when on trips from St. Louis to Shawneetown. Grandfather enjoyed playing jokes on his guests. I remember hearing him tell about a joke he played on a drummer who was one of his guests in the Halfway House. He said he filled the vinegar bottle with a mixture of vinegar and red pepper and put it near the drummer's plate. The drummer used a generous supply and soon the other guests saw he was becoming ill. Their anxiety was relieved when the drummer suddenly gulped a glass of water and cried out: "blaze, damn you, blaze."

Grandfather's last tavern was at Galatia. It became a popular place for the residents of Galatia to gather for a social evening. In those days, all taverns had a bar. Grandfather never drank and he would not sell liquor to a man who showed any signs of becoming intoxicated.

Grandmother lived a quiet life. Her greatest pleasure was smoking a clay pipe filled with pulverized leaf tobacco. She was less than five feet tall. Grandfather was over six feet. I have a vivid memory of seeing her sitting in front of a wood-burning stove, smoking her pipe. While lighting her pipe with a burning taper one day, her dress caught fire and she died as a result of the burns she received.

CHAPTER VI

School Days

I was enrolled as a pupil in the first grade of the Carterville Public School at the age of five. My teacher was Miss Mary Randolph. My favorite study was spelling. Each day we stood in line along a wall of the schoolroom. There were about thirty pupils in the class. Miss Randolph gave out the words to be spelled, always beginning at the head of the class. I was over-anxious to get into first place and keep it. One day while I held first place I studied the words one hundred times, which she had assigned us for the day's lesson. This was too much for me. I became ill and vomited. Miss Randolph sent me home. I lost first place.

The next year I was in the second grade. Miss Mary Bentley was the teacher. I was a natural-born left-hander and held my pencil in my left hand. Miss Bentley frequently told me to hold it in my right hand and emphasized her request by tapping my knuckles with a light ruler. She finally succeeded in getting me to hold the pencil in my right hand and ever since I have written with my right hand and do so now.

However, I am a very poor penman today and always have been. I attribute this to the fact that I was taught to hold my pencil in my right hand, contrary to my natural bent, and to the fact that the writing system was changed from Spencerian to Vertical, to a back-hand slant, and then again to Spencerian. I suspect also that a part of it is due to

my speed. I have always done everything I have had to do very speedily.

I next entered the third grade. Miss Emma Pope, my teacher, called on me to read a poem. Reading was easy for me. I read these verses very rapidly and my reading sounded as though I were singing. When I finished, Miss Pope said: "And tweedily, tweedily, dee" in the same singing tone I had used. The pupils all laughed. I was much embarrassed and wept. I made a vow I would never read poetry again in public and I have not. Once I was punished for not reading poetry aloud in school.

Thereafter, at the beginning of the school term each year, I would tell my new teacher I never read poetry aloud and asked her not to call on me to do so. My request was granted by each teacher until I reached the seventh grade of the Pinckneyville Public School.

My fifth year was uneventful and I passed into the sixth grade. Miss Nora Farrell was my teacher. She was the first teacher to impress me with a desire to do everything I did in the best manner possible.

We moved to Pinckneyville a few weeks before the school term closed. Miss Farrell told me that I would not be promoted if I did not finish the sixth grade course of study. I was terribly disappointed and asked her if there was anything I could do to be promoted. She said if I would solve all the arithmetic problems which the class would have to solve by the close of the term, write them out and give them to her, she would recommend my promotion. I secured a bound notebook, pen, and a bottle of red ink. I immediately began the task and, before we moved, I handed her the notebook with every problem solved. I was promoted. I wonder if the red ink helped get my promotion.

When I entered the seventh grade, in Pickneyville, Mrs. Mary Vaughn, was my teacher. In this year, I had my most trying and embarrassing experience.

The first day, I entered the seventh grade I told

Mrs. Vaughn I would not read poetry aloud in class, and why. She appeared to heed my request until one day when our room was visited by a retired school teacher. Our reading lesson was a poem. When my turn came to read a verse, Mrs. Vaughn said: "John, read the next verse." I replied: "Mrs. Vaughn, you know I do not read poetry" and sat down. She then said: "Stand." I stood. She said "Read." I remained silent. She requested one of my classmates to ask Supt. Joiner to come to her room. Mr. Joiner came and she told him I had refused to read. He said: "John, come with me to my office." I did so.

His office was situated where the girls from the eighth grade could look into it, as they marched out for recess period. Mr. Joiner gave me a long lecture on the evils of disobedience and said he would have to punish me. As he took the small strap in his hand, used by all the teachers to inflict punishment on a pupil, the girls of the eighth grade marched by for the recess intermission. The strapping did not hurt me but my embarrassment, arising from the fact that these girls saw me being punished, did cause me much mental grief. Before Mr. Joiner punished me, he said: "John, this will hurt me more than it does you." If it hurt him at all, it hurt him more than it hurt me physically but my mental suffering I am sure was much worse than his.

An amusing, and to me, another embarrassing, event happened in the seventh grade.

Mother insisted that I should wear a tie to school each day, which I disliked very much. She gave me a four-in-hand ready-made tie. It had a triangular-cardboard-shaped center to hold the tie in shape. I had worn this tie so long, it was ready for discarding.

I lived about one mile from the school and took my lunch to school as did several other pupils. At the noon hour, we were gathered to eat around the large coal-burner stove in the center of the room. One day as we were eating, I noticed my roommates were laughing and pointing at my tie. One of them

said: "John, look at your tie." I took it off and when I looked, I saw the silk had slipped down and the cardboard center showed printed thereon the words: "Too rich for my blood." My face reddened. I grabbed the tie, threw it into the stove, where it burned. I then joined in the laughter.

When I was in the seventh grade, my favorite authors were Nick Carter, Diamond Dick and Frank Reade. I was thrilled when I read their detective and adventure stories. Paperbound novels that sold for five cents each.

My Uncle Elbert owned a small store, managed by his son, William A. Biby, where these novels were sold. Will had a brother, Ed, who also liked to read these novels. I proposed to Ed that I would buy one, and when I had read it, I would give it to him to read, after which he could replace it in the rack in the store, where these novels were kept, and take out another; after we had read that, the exchange could be made again. We did this for a long time until my novel reading was abruptly ended. Father would not let me read these novels at home and it was against the rules to read them in school. Believing I could get around the school rule, I would take a novel, place it inside my open geography book and study diligently. One day I failed to notice Mrs. Vaughn standing near my desk. She said to me: "John, what are you studying?" I replied: "My geography lesson." She then said: "I did not know Diamond Dick wrote a geography." She took the novel and threw it into the stove where it burned. I never knew whether Cousin Will ever learned he had supplied me with all the 5 cent novels I ever read at a total cost of 5 cents. I doubt very much that he did.

The next year I entered the eighth grade. William O. Edwards was the teacher, a tall and very homely young man. We pupils nicknamed him "Ichabod" after Ichabod Crane, the famous character in the Washington Irving story. Mr. Edwards always went home for his lunch.

The Harrison and Cleveland campaign for the office of President was being vigorously conducted by both the Republican and Democratic parties.

A popular Republican campaign slogan was "Harrison rides a white horse. Cleveland rides a mule. Harrison is the President and Cleveland is a fool." I was an ardent Harrison supporter. Stella Council, a schoolmate, just as ardently supported Cleveland. One day I was reciting the slogan in a loud voice. Stella grabbed an eraser and threw it at me. The best missile I could find to throw at her was a stick of blackboard crayon. Just as I threw it, "Ichabod" stepped into the room and the crayon hit him. Before entering the room, he heard me reciting the slogan. He was a supporter of Harrison and appreciated the humor of the occasion. He reduced my punishment, which might have been quite severe, to staying fifteen minutes after school closed.

The next year I was a student in the high school. The principal was Mr. Corn. About three months before the close of my senior year, Mr. Corn told me my grades were such as to make me Class Valedictorian and that it would be my honor to deliver the Class Valedictory address. I told him I had never spoken in public and that I could not do so. He said he would assist me in preparing for it. He asked me to deliver Lincoln's famous Gettysburg address at our next regular Friday afternoon program. This address is a model three-minute discourse. I had never given the recitation from memory on this program. My part always was to read a comic story.

I learned the Gettysburg address and as I walked down the aisle to the front of the room where I was to stand and face the audience while I delivered the address, I felt my legs shaking. I said to myself, if my legs are shaking like this when I start to speak, I will go to my seat. When I was ready to start, I looked down and no shaking was visible although I could feel my legs shaking very much. I delivered the address in exactly one and one-half minutes.

My Valedictory address was entitled, The Value of Friction. I stressed the results that follow from bringing the mind in contact with lives of great and successful men by reading their biographies, making a firm determination to succeed and working hard to accomplish it. I feel the theme of this address has influenced my life.

CHAPTER VII

Public School Teacher

My interest in spelling continued throughout my school teaching years. I always conducted a Friday afternoon spelling match. I chose a leader for each side. The leaders took turns calling the pupils whom he or she desired on his or her side, until all the school stood in line. When a word was misspelled by one side, the pupil on the other side was requested to spell it. If he or she spelled it correctly, the one who misspelled the word took his or her seat. If both mispelled it, both took their seats and another pupil was asked to spell it. In the end, the side won, which had the most pupils standing in line at the close of the match. Country schools, all over Perry County, conducted these spelling matches at which many teachers competed. I never missed one and often drove through rain, sleet, snow and mud to get to the school house where the "Spelling Bee" was held.

At a "Spelling Bee' held in the Pyatt School, 6 miles South of Pinckneyville, spellers were unable to spell the word "fracas" correctly. When the word was given to me to spell, I spelled it correctly. Later, the spellers were given "auxiliary" and none could spell it. I was recognized as a good speller and this word was then given to me. When I spelled it correctly, the teacher of the Pyatt School said: "Mr. Biby, you cannot spell any more. Take the spelling book and pronounce the word to be spelled by the other spellers."

I loved to compete in these "Spelling Bees" and did not enjoy becoming disqualified. However, I

honored her request. After the "Spelling Bee' closed, a teacher asked me how I was able to spell "fracas." I told him I was raised in "Bloody Williamson County" where a fracas was a very common event.

Another custom of the country schools was to hold a "Box Supper." Each young lady would prepare a supper and take it in a cardboard box. These boxes were auctioned off to the highest bidder. Each young man wanted to buy the box of the lady friend who accompanied him to the box supper.

As teacher of the Nation School, I was the host at a box supper. The young lady who accompanied me was the niece of one of the directors of my school. She had prepared an excellent supper of fried chicken as the *piece de resistance*. She wrapped her box with colored paper and tied it with a red ribbon.

Four of my pupils decided to play a joke on teacher. They decided they would outbid me for the box of the young lady who accompanied me to the supper. $1.00 was considered a high price to pay for a box. Bidding usually started at 25 cents. I opened the bid for my friend's box by bidding 25 cents. My pupils raised the bid to 50 cents. I raised it to 75 cents. They consulted and bid $1.00.

By this time, our bidding had attracted the attention of all present. I decided I would raise their bid until I thought they would stop bidding. The bidding continued until they bid $4.00. I then said: "I am through." The box was sold to them to their great disappointment. Later I told them that when I realized they were playing a joke on me, I decided to turn the joke on them. One of them replied: "You certainly did. We did not want the box."

When I taught the Nation School, I had considerable trouble to abate fighting among my boy pupils. Scot Miller was the school bully. He fought other pupils frequently and provoked my two 5-year-old pupils, Floyd Davis and Jacob Houghland to fight.

Scot's father was one of the directors of the district in which the Nation School was located. The

day I was employed, he asked me if I would whip a pupil if I thought he deserved it, even though the pupil might be his son. I told him I would. He said that "pleased him and I will vote to employ you."

I told my pupils that any pupil who fought or started a fight on the school grounds would be punished. Scot disobeyed this rule and I punished him with a strap made for that purpose.

Later in the term, Mrs. Miller, Scot's Mother, invited me to have supper with her family on Scot's birthday. She also invited several of my pupils. She was a good cook and had prepared chicken and dumplings for the main course. During the meal, she asked me why I had whipped Scot. I told her why and she said she resented it very much and then berated me with the worst tirade of words I have ever heard. Mr. Miller took her from the dining room. When he returned, he apologized to me for her conduct and he also stated she was very nervous. Her conduct embarrassed me very greatly and I did not feel like staying in her home any longer and I departed. Later, Mrs. Miller died in the Southern Illinois Asylum for insane persons.

When I taught the Nation School, I was 18 years old. I had 63 pupils, whose ages were 5 to 18. The day's schedule allowed only 10 minutes to be given to each class.

I was more interested in the first-year pupils than in the older ones. My 18-year-old pupils were Orpha Davis and Eddie Geistoffer. I asked them if they could assist me by continuing this class, after I had taught it for the allotted 10 minutes, without interfering with their studies. They said they could. In teaching arithmetic, I used colored toothpicks to teach them to count. When it was time for me to teach another class, Orpha and Eddie continued with the small pupils.

Walter R. Kinsey was then County Superintendent of Schools. I took the examination for a certificate to teach, which was given by him. Teachers

could take an examination for either the first- or second-grade certificate. The examination for a second-grade certificate was easier.

This certificate was good for only one year and to continue teaching, it was necessary to take an examination each year. The examinations for a first-grade certificate covered all questions asked in the examination for a second-grade certificate and, in addition, was based on English literature, rhetoric, algebra and geometry. This certificate was good indefinitely. I took this examination and passed. Miss Laura Hayes and I were the only grade teachers in Perry County who had first-grade certificates, except the teachers who taught in high schools.

One day Supt. Kinsey visited the Nation School. I was busy with my beginners' class. I did not see him enter and was much surprised when I noted his presence.

He remained about an hour. Later he told me he was pleased with my work.

A teachers' convention was held each year during the summer vacation. All teachers were required to attend for two days. At these conventions, demonstrations of methods of teaching were made by teachers in the county.

In the convention held in DuQuoin in 1901, a colored teacher in the DuQuoin School had a class of small colored children read to illustrae her method of teaching diacritical marks. They read in unison. The selection read was poetry. As they came to a period, comma, exclamation point or question mark, they named it without any pause or change in their rhythm. The piece was long and soon the teachers present began to smile and finally laughed loudly. The little readers continued to the end of the poem and then, led by their teacher, they marched out of the room.

In those days, stiff-bosomed shirts were the vogue. I purchased a new one to wear to this convention. Its color was white, woven with bright red squares

about 1½ inches in size. Supt. Kinsey told the men teachers they would be more comfortable if they took off their coats. Many stood and removed them. As I stood to take my coat off, rather proud of my new shirt, a large negro teacher arose at the same time and removed his coat. His shirt was like mine. All the teachers near me smiled and I sat down much embarrassed. At the next session, I wore a different shirt.

The year I taught the fourth grade in Pinckneyville, an event occurred which disturbed me very much at the time, but concluded in a happy manner.

There was a strict rule in all the grades that pupils must not whisper to each other during school hours. As teacher, I believed it to be my duty to enforce this rule strictly. I repeatedly requested my pupils to obey it and told them I would punish any violations. I had four girl students, each aged 10. They were my brightest pupils. Virginia Murphy, one of them, was the daughter of a member of the Board of Education. Grace Ritchey, another, was the daughter of the pastor of my church. Lucy Malone, the third, was the daughter of a prominent lumber dealer and Myrtle Merley, the fourth, was the daughter of a saloon keeper, who never drank nor did either of his sons. As a matter of fact, he would not sell a drink to a drunken customer.

Myrtle had a beautiful soprano voice and led our school songs. Virginia sang alto and Lucy and Grace soprano. At our Friday afternoon programs, they sang as a quartet. These four girls tried to evade the rule against whispering by passing notes. When I became aware of this, I told them note-passing must stop and that I would punish any pupil I saw passing a note.

At one morning session, I saw these four girls passing notes from one to the other. I warned them that if they did not stop it, I would punish them. They were in the same class and sat in adjoining seats. When the class convened, I saw them passing

notes and slyly looking at me to see if I observed them. I had and I told them to remain at the noon hour as I intended to punish them. I inflicted the punishment by placing my hand under the pupil's chin, lifting her chin upward and gently slapping her with my open hand three times. This punishment caused no physical pain but did embarrass each girl greatly. The effect on me was worse than it was on the girls. When the afternoon session convened, Grace, Lucy and Virginia were absent. During the afternoon recess, a note was laid on my desk. I read it. It was from Mrs. Murphy requesting me to call on her after school closed for the day. I had visions of being reprimanded by her and imagined the result that might follow from her telling Mr. Murphy of the event, in case I applied for employment during the following year.

When I knocked on the door of the Murphy residence, Virginia opened the door and led me to the parlor and there I saw Mrs. Murphy, Mrs. Malone and Mrs. Ritchey. Mrs. Murphy arose and came toward me holding out her hand. I shook it and she said, "Mr. Biby, I want to thank you for punishing Virginia. She deserved it and I know it will teach her a good lesson." Mrs. Malone and Mrs. Ritchey said practically the same thing to me and my spirits rose more than 100 percent. Mrs. Murphy then served lemonade and angel food cake. At each ice cream social given by either of our three Protestant churches, Mrs. Murphy always sent one of her delicious cakes.

When I left the Murphy residence, I returned home a happier and wiser teacher.

In later years, Mrs. Murphy became one of my best friends and supporters of my school work. With her sister-in-law, Mrs. W. K. Crawford, who was the wife of the President of Murphy, Wall State Bank, these two ladies often visited my school. One Friday afternoon, they called while our regular Friday afternoon program was being given. I was not in the

room at the time they arrived. The pupils organized these programs. They had a president who presided and a secretary. I believe that showing pupils they could be trusted had a better effect than punishing them when they were disobedient. I often left the room as a program was being rendered and visited another room. I had previously told them about the honor system and that I intended to place them on their honor whenever I left the room. The children liked to be trusted and if my pupils ever abused this trust, I never learned of it.

Mrs. Murphy and Mrs. Crawford were surprised when they saw I was not in the room. They seated themselves and were there when I returned. After school adjourned, they told me the conduct of the meeting by my pupils and their demeanor was a happy event to them. Mrs. Murphy said to me: "Mr. Biby, you are building character." This made me very happy.

In later years, Mrs. Murphy and her husband moved to Los Angeles as did two of their daughters. Mrs. Murphy died here. Her daughters requested me to speak at her funeral, which I did.

When I taught the eighth grade of the Pinckneyville school, I had much trouble trying to stop certain of my pupils from throwing spitballs to the ceiling where they stuck. The worst offenders were Ellsworth Wilkerson and Dempsey Williams. One day just before the noon recess, I saw them throwing spitballs to the ceiling. I told them I would punish them when they returned for the afternoon session. Punishment was inflicted by applying a leather strap, furnished by the school board. When the afternoon session convened, Dempsey did not return. When Ellsworth returned, I noticed that something bulged under his coat. I realized he had placed a shingle under his coat, with the idea the strap would not hurt him when I applied it to his back, as was the usual custom. I decided I would fool him. I held him

by one arm and applied the strap to his legs. He was so surprised, he jumped about two feet high.

The next morning Dempsey was present and I applied the strap to his back. I required Ellsworth and Dempsey to remove the spitballs they had thrown to the ceiling. After this occurence, I had no further trouble with spitballs.

Later, Dempsey became a barber and moved to Los Angeles. He secured employment in the barber shop in the building where I had my office and went to have my hair cut. One day when I came into this shop, Dempsey was there and I took his chair and told him I wanted my hair cut.

When he shaved my neck, he held the razor in front of me, saying: "Mr. Biby, aren't you afraid I will cut your throat to get even with you for the punishment you gave me when I was your pupil in Pinckneyville?" "No, Dempsey," I said, "I gave you just what you deserved and if I were to do it over, I would give you the same punishment." Dempsey smiled and said: "I agree with you now, but I did not at the time." Afterwards, Dempsey cut my hair and we enjoyed talking about Pinckneyville and our mutual friends and acquaintances who lived there.

CHAPTER VIII

Sports and Hobbies

I am a lover of nature. Outdoor life has always attracted me. When I lived at Pinckneyville, I spent much time strolling through the woodlands along the banks of Beaucoup Creek. It was said about me, that there was not a tree stump in Beaucoup Creek bottoms that does not have my footsteps around it. I learned the name of every tree, shrub and plant that grew there. These, among others, included big and small scaly hickory nuts, white and black walnuts, hazel nuts, wild grapes, blackberries, dewberries, elderberries, pokeberries, persimmons, black and red haws, paw-paws, May apples, wild cherries and strawberries.

When a small boy, my principal sports were playing marbles and baseball. I was an expert marble player but never able to plump my taw in the approved manner. My taw was either a flint or glassie. I placed my taw on my thumbnail and held it in place by my forefinger, pressed tightly against it. I then plumped at the target by using my thumb. Before the season closed, my thumbnail was worn through and became very sore and I would have to miss several days playing while it healed.

A popular marble game was knocking a small marble out of a circle by hitting it with the taw. Each player in turn placed one of his marbles in the circle. The player stood behind a line about 10 feet from the marble in the ring. The player who knocked the marble outside of the ring kept it.

Another popular marble game was called hull-gull.

The object of this game was to guess the number of marbles the player held in his closed hand. Many schemes were used to deceive the guesser. One was to hold a very large marble in the closed hand and place a few small marbles between the fingers so the guesser could see them. This scheme usually brought forth a guess of a large number when, in fact, the holder of the marbles had a very small number in his hand.

Another scheme was to hold a large number of very small marbles called peewees. Twenty-five of these small marbles could be purchased for a nickel.

The guesser got all the marbles held in the other player's hand if he guessed the correct number held. If his guess was not correct, he paid marbles to the other player equal to the difference between his guess and the number held. I often won and acquired quite a few nickels by selling my winnings to a player who had gone broke. I sold them to him at a price less than he could buy them at a store.

Baseball was a favorite sport of mine and still is. When the baseball season is on, I never miss a game shown on television and when not so shown, I listen on the radio. I was a pitcher and could throw a drop, an in and out curve. I also batted well and could run fast.

I have done much fishing which I enjoyed very much. When I lived in Carterville, the only place we could fish was in a pond in which water was stored to supply the power of the local saw mill. Here we fished for catfish. We used a pole cut from the limb of a tree, and a small cord for a line on which we would put a small bottle cork high enough above the hook to hold it so it would hang near the bottom of the pond. The hook was baited with a worm. When the catfish bites, it quickly grabs the worm in its mouth and swims rapidly away pulling the cork under the water. Then it is time to give the hook a strong jerk to fasten it in the mouth of the fish. Next, it is brought out by lifting the pole. When removed

from the hook, the fish is placed on a string by running a small stick to which a cord is tied through the gill of the fish and out at its mouth. The fish is then slid down the cord to its end. It is then placed in the water to keep it fresh and the stick stuck in the mud to hold it.

I was a proud boy when I could take a string of fish home. These catfish averaged about 6″ in length.

When I moved to Pinckneyville, my home was about one-fourth of a mile from Beaucoup Creek. In this creek, there were catfish, perch, and a few stray bass. The next day, after we moved to Pinckneyville, Mother agreed to go fishing with me. I dug the worms. We used the same kind of tackle I had used at Carterville. Within one hour, we got enough perch for our supper. I often fished in this creek at night. For night fishing, we built a small fire near the water to attract the bullfrogs. We caught these frogs by dangling a small piece of red flannel, tied to a fish hook, near the frog, which would grab the flannel and be caught on the hook. We never ate the saddles of a frog, which is considered a delicacy in the South; we used them for fish bait.

In the low bottom lands near the Creek were the homes of hundreds of crawfish. They lived in holes which they burrowed in the soft ground. As they burrowed the hole, the mud was pushed upward and formed a small spiral mound above the ground. To catch the crawfish, we toppled the mound over. The crawfish immediately came up and we lifted it from the hole. Under their tails was a growth of soft white meat which is also considered a delicacy in the South, but we also used this meat for fish bait.

One time after a heavy rain, the water in Beaucoup Creek overflowed its channel in places and spread over the grass and weeds growing near the creek. Late one evening I set a trot line with twenty hooks on it in the overflowed water where I judged the fish would forage for food. Early the next morning, I went to get my catch, if any. I found fourteen cat-

fish on my line; the largest was a channel cat which was two feet long and weighed 3½ pounds. I strung these fish, and "proud" does not begin to describe my feelings when I showed my catch to Father. He said, "Johnny, you are sure a fisherman. I have never caught a string like that in all my life."

Much later, when I came to California, I fished each Saturday off the Hermosa pier and weekday evenings I fished from the surf off the shore.

We caught principally mackerel. Mackerel fishing is done with ten or more small hooks tied above a lead weight at the end of the line. This weight is on the line so that when a cast is made, it will go far out into the ocean.

The mackerel we caught averaged about one pound in weight. We often caught a half-dozen or more at one time. The pier was always crowded with mackerel fishermen. When the mackerel run was on, every fisherman caught several. These caught mackerel would run in every direction, over and under several lines, the resulting tangles often required an hour to untangle which had to be done without cutting the lines.

The first time Father visited in Los Angeles, I took him to Hermosa to fish off the pier. He had never used a rod and reel. I cast several times to show him how to do it. After he had practiced several times, he managed to cast a fair distance out into the ocean.

It was a bad day for fishing and I began to feel that Father would meet with disappointment. I was several feet away from him talking with an old-time fisherman who never missed a day away from his favorite spot on the pier. I told him who Father was and that it was his first time to fish in the ocean. While we were talking, Father got a strike. He began to reel in and after considerable effort landed a large sea trout, a very rare catch in this part of the Pacific. It weighed about two pounds. No one knew what kind of a fish this was until the old fisherman identified it as a sea trout. He said to me: "I have

fished off this pier for twenty years and have never caught a sea trout. Now, your Father, a green-horn fisherman, comes along and catches one the first time he ever fished in the ocean." Father often told his Pinckneyville friends of his rare catch and what the old fisherman said about him. This was a memorable and happy event in Father's life.

I had an amusing and, to me, enjoyable time on one fishing trip I made out into the ocean. I chartered a small boat at Redondo and invited twenty of my friends to spend the day with Mrs. Biby and me fishing for Barracuda. We cruised over a number of miles before sighting any. Suddenly the boatman saw a large school of them. I had taken a bounteous lunch for the party which we enjoyed before we sighted the Barracuda. The ocean became choppy and the boat was rolling; soon several of my guests became seasick. One of them, Clyde Arthur, was down on his knees holding his fishing pole and "heaving Jonah" over the side of the boat, when he got a strike. He got a Barracuda, which was a large one weighing about four pounds. His efforts to reel in this fish, hold himself in the boat and vomit, all at the same time, appeared comical to me but not to Clyde. He never went on another ocean fishing trip.

I had many enjoyable trout fishing trips. On one such trip, the fathers, whose sons attended the Wilshire Presbyterian Church Sunday School took them on a trip to the Cottonwood Lakes in the High Sierras near the foot of Mt. Shasta. We went in autos and arrived at Pine Lodge before noon. After luncheon, we mounted horses and climbed the mountain grade, eleven miles, to our camp. These horses were owned by "Old Barney," an experienced mountain guide. After we were settled in our camp, the men fished for trout and the boys rode horseback and made long hikes. The nights were very cold; we slept in tents under army blankets. At night, the small stream by the side of which our tents were pitched, froze over. This was the only water avail-

able for shaving. I tried it two mornings and decided it was too cold to use for a shave. I did not shave again as long as we stayed in the camp. When I returned home, I had a beard. When Mrs. Biby saw it, I was requested to shave it off at once. As I shaved, I decided I would leave the mustache, as I had never worn one. When I appeared, Mrs. Biby invited me to return to the bathroom and "Shave that thing off," which I did.

On Father's first visit to me, after I moved to Rimpau Boulevard, he brought me several small Elm and Box Elder trees in his suitcase. He dug them in Beaucoup Creek bottoms, wrapped them in wet paper, with dry paper over the wet. I planted four of the elms in front of my home and one elm and one box elder in my back yard. Today, these trees are beautiful and provide an abundant shelter in the summer. The elm in my backyard is about two feet in diameter.

Father was much impressed by my new home but he did not fully approve of it because it had no porches. In Pinckneyville, no one would build a residential building without a front and back porch. When he returned to Pinckneyville, he told his friends, I had the biggest house with the biggest rooms and the most baths of any house he had ever been in but he would not want it because it had no porches.

During Father's visit, I took him into the back yard and showed him my children's playground equipped with a swing, trapeze, slide, teeter-totter and other equipment. The playground was about 30x100 feet in size. Father looked it over and said: "Johnny, what a lot of potatoes you could grow here." I told Father what he said reminded me of the young man who left his father's farm in Minneapolis and went to Chicago to study law. After he had become a successful lawyer, he invited his father to visit him. When he came, he took his father on a sightseeing trip including the new Coliseum, which seated 30,000

people. They stood in the balcony and, as his father looked over the large auditorium, he said: "Son, what a lot of hay this would hold."

I enjoyed a vacation at Lake Tahoe in the summer of 1909. I made reservations at a camp several miles from Tahoe Tavern. We had luncheon at the Tavern and then drove to camp in a surrey pulled by four horses. It was late in the afternoon when we reached our destination. Snow covered the rocks near our tent. When I retired, I placed my dress shoes under the cot I slept on. When I arose, I put on a pair of heavy mountain climbing brogans. During the night, the snow melted and a small stream of water was running through the tent. We were discouraged with the prospects for an enjoyable vacation in this camp. About the time the surrey was to arrive the next day bringing another load of guests, we suddenly decided we would leave the camp and make the return trip in the surrey. I hurriedly changed my mountain clothes to a business suit but forgot to change my shoes. When we left, I forgot my shoes. After our vacation ended, we returned on the train by way of San Francisco and stopped at the Stuart Hotel. I was much embarrassed by the attraction my brogans drew from the guests assembled in the lobby. Before we left, I purchased a new pair of shoes.

I secured reservations at a resort on the Nevada side of the lake where we completed our vacation. I trolled for fish in the lake at a depth of 200 feet. A strike felt like a small nibble. I had to reel my hook up the full depth to determine whether I had caught a fish. I caught one and when I reeled it to the surface, its bladder was extended like a small balloon from its mouth and it was dead. The bladder was pushed out when the pressure the fish was accustomed to live under was lessened as it neared the surface. I asked the proprietor of the resort to recommend a small lake where I could fish for lake trout. He said to go to Marlette Lake. I hired a two-horse carriage with driver. A young lady whom we met at

the resort worked in the Security Bank at Los Angeles. She asked me if she and her mother could go with us for the drive. She said they did not fish and that she would pay half the hire of the carriage. We took them with us. After a two-hour drive, we arrived at the lake. The guard told me the limit was "10 and a fish," and that we could catch the limit for each member of our party. As there were four in my party, we could lawfully catch 44 trout. Mrs. Biby and I did the fishing and caught the limit. These fish weighed on an average about 1½ pounds. When we reached the resort, I told the proprietor I wanted to serve all his guests with a trout dinner. He happily accepted my offer. When the fish were brought to the table, he told his guests they were a treat from me and asked me to stand. I did so and received loud applause from the hand-clapping guests.

At a later time, we were invited to spend the night at the mountain camp of a friend, Mr. P. A. Mulford, whose daughter had married Lysle Burgess, one of my closest friends to the present time. He took his wife and a colored cook in his car. Mrs. Biby and I drove with Mr. Mulford. Lysle had a powerful Lozier automobile and reached the cabin much ahead of us. The cabin was located at Mt. Baldy. When we reached a steep grade about one mile below the camp, Mr. Mulford's car did not have power enough to climb the grade. We waited a long time and finally saw Lysle coming in his car. He towed us up the grade.

The next morning Mr. Mulford and I went trout fishing before breakfast in a stream near the cabin. We caught about forty trout, each very small. We cut their heads off and dressed them. The cook rolled them in yellow cornmeal and fried them very crisp. We ate them bones and all. I have never eaten fish that tasted so good.

These are fish stories and each is true. I have not mentioned any of the big ones I caught but which got away.

Hunting squirrels, quail, rabbits, coons, and possums were other sports I enjoyed. My hunting companions were Willard Smith and Ben Keene, whose nickname was "Coonskin" because he wore a cap made of coon skins which he had caught. Both men were many years older than I. We went to the hunting ground in a wagon drawn by horses. Our best hunting places were in Beaucoup and Swanwich Creek bottoms. We usually took sufficient food to supply our needs. On one overnight trip, we decided we would eat squirrels we had killed for dinner and have fried fish, which we expected to catch, for breakfast. We took only bread and lard with us. We did not kill one squirrel or catch one fish. We fried our bread in the lard, which was all we had to eat for two meals. We returned home hungry and wiser. We never went hunting again without taking an abundant supply of food.

We often went hunting for possums and coons; these hunts were at night. Ben owned a well-trained coon dog. This dog would follow the scent of a coon for many miles, baying as he followed the coon's scent. When the coon finally climbed a tree, we would hear the dog bark loudly and immediately go to him. We always carried a lantern, an axe and a cross-cut saw. We would cut the tree down in which the coon was hidden. As it fell, the coon would run down the slanting trunk of the tree to the ground. The dogs would catch it and then we soon killed it.

On one coon hunt, Willard and Ben decided to play a joke on me. As we hurried to get to a tree where a dog had located a coon, Ben said, "We had better go slow along here as there is an old abandoned well somewhere nearby and I am not sure where it is." He knew we were quite near the creek. Just as he said we had better slow up, I stepped over the creek bank, and fell into the muddy water. As I realized I was going down, I screamed loudly. I thought I had fallen into the old well and would drown. Willard and Ben laughed heartily and I realized they knew

I would fall over the creek bank and would not be hurt. Later, when I was with a group of friends, Ben told them all the details of the joke, and often said to me, "John, scream like you did when you fell into the old well." I refused to scream again and if a look could kill, Ben would have been slain instantly.

Possums are also hunted at night. When the dog trees one, it is usually found in a small sapling, which we would shake, causing the possum to drop to the ground. There it would lie very quietly and appear to be dead. However, as we carried it along by its tail, it would come to life and curl up and bite the hand holding it.

Quail hunting requires a hunter to shoot quickly. Jack Wildy was an expert quail hunter. He had a well-trained quail dog. One day Jack invited me to accompany him on a quail hunt. When the dog "set" a covey of quail, hidden from our view, it stood rigidly with its tail very stiff. To start the quail flying, Jack would say "Flush them" and the dog would jump toward the covey and they would immediately take flight.

Jack was walking in front of me as we approached the dog "pointing" a covey. We raised our guns to cock them and were ready to make quick shots as they flew. I accidentally discharged my gun and the load of shot passed so close to Jack's head that he said he felt the wind it made on his face.

My Uncle Julius shot and killed his cousin while deer hunting. My brother Harry lost his right hand in a hunting accident. A neighbor boy lost his leg in a hunting accident. While shooting a squirrel, my gun exploded and I carried powder scars on my face for many years. Reflecting on these accidents, I quit hunting and to this day have not fired a gun.

Hunting rabbits was good sport and I often enjoyed it. When a rabbit is disturbed in its lair, it always runs in a circle, returning to its starting point. We could locate the resting place of a rabbit by following its tracks in the snow to their end. One day when my

brother, Fred, was a small lad, he went hunting with me. We found a rabbit was in its lair which was near a tall tree. Our approach disturbed it. Fred saw it run before I did. He was much excited when he saw the rabbit run and cried out to me, "Git behint the tree, git behint the tree!" He wanted me to hide so the rabbit could not see me when it returned. I hurriedly got "behint the tree" and when the rabbit returned, I shot it.

It is difficult for me to determine what sport I liked best for I entered into each very enthusiastically. I will put golf near the top of the list. I played golf on Wednesday and Saturday afternoons on the course of the Brentwood Country Club of which I was a member. My regular companions were Clyde Arthur and Charles Reynolds. We always filled out the foursome with a friend. We often played 27 holes in succession. One time Clyde and I played 36 holes. After each game, we played the "Nineteenth Hole" in the clubhouse where we usually had tea and cinnamon toast. To add interest to this hole, we "shook the box" to see who would pay.

Brentwood Clubhouse was a beautiful place to entertain. One night I gave a dinner party and invited 80 guests. Two days before the party, I went to San Francisco to assist in the negotiations for the Los Angeles Creamery Company, which was my client, to sell its creamery. On the day of the party, I realized the business might not be completed for me to return in time for the party. I told the president of the creamery company in San Francisco, with whom we were negotiating, that I was giving a party at my country club that night for 80 guests and that I must not miss it. He expressed his sympathy and we went into the afternoon conference. The sale was agreed upon and I had completed dictating the purchase and sale agreement. It was then nearly 4 p. m. As the meeting was about ready to adjourn, the president said to me, "Mr. Biby, I do not want you to miss your party. My chauffeur is waiting for you

in my car in front of this office. He will drive you to the airport where my private plane is warming up to take you to Los Angeles." I thanked him and was soon at the airport. The plane was a small open one with two pilots. I had never ridden in an airplane. When we were at an elevation of about 15,000 feet one of the pilots passed me a note, as there was too much noise from the motor for us to talk, saying: "We are off our course and will drop down to see where we are. Hold tight." The long drop was so rapid, I thought the plane was falling. When we were about 1500 feet above the ground, the plane swept upward and I saw printed on top of a barn in large letters the word "Bakersfield." From this sign, the pilots knew where we were and soon were over our landing place. Arrangements had been made by telephone to land the plane at a small private airport near Van Nuys. I had wired for my automobile to meet me at the airport. As we neared the airport in the twilight, the landing lights had not been turned on. We circled the landing field several times and finally the lights appeared. The superintendent of the airport said he had not received a telephone call advising we would land there. When I alighted from the plane, I was unable to understand conversation for about two hours because of the continuous roar of the motor in my ears. I arrived in Brentwood in time for the party and enjoyed it very much.

Another sport I enjoyed very much was making and flying kites. My kites were made by crossing two thin pine sticks with the cross one-third of the length of the sticks. I tied these sticks with string to hold them firmly together. I then put a string around this frame on which I pasted a newspaper with paste made by mixing flour and water. The tail was made by tieing short rolls of paper with a string and attaching it to a strong loop made by tieing the string a few inches above the lower end of each long stick.

It requires skill to make the tail of the kite the right way. If too light, the kite would rise a short

distance and then dart to the ground. This defect I remedied by adding more weight to the tail. If the tail was too heavy, I cut off enough to make it the right weight. About equal distance on each side of the point where the sticks crossed, I tied a string with some slack in it. This was called a bridle. The string had to be tied in the exact center of the bridle. The string by which the kite was flown was in a ball about 400 feet in length—it cost 5c. A breezy day was best for flying kites. I made hundreds of kites and sold many of them to my playmates for 5c each, which included instructions for making a tail the right length and tieing the string to the bridles at the place which gave proper balance to the kite.

I flew my kite daily throughout the kite season. As it went up, I let out the full length of the string and the kite would soar upward to a height of about 250 feet. I often tied the string to some object on the ground and the kite would remain aloft all day and I could play or do the work Mother assigned to me, with my kite flying high.

For a closing statement about my sports and hobbies, there is no better subject than the old swimming hole.

In my youth, Pinckneyville had no bathtubs or bathing suits. In the winter we took our baths in a washtub. In the summer, we swam in the old swimming hole in Beaucoup Creek where I learned to swim.

This swimming hole was about 50 feet wide and 200 feet long. It was situated between two slanting clay banks about 20 feet in length. We boys carried water to the top of one bank and poured it out. It ran down the yellow clay to the swimming hole. After a little smoothing and more water, we had a perfect slide. One after another, we slid down into the hole, laughing and shouting with glee.

On one bank was a water-oak tree about 30 inches in diameter. Its branches spread over the creek. A grapevine, 2 inches in diameter, and about 30 feet

long grew from the ground to the branches of the tree. We cut this vine near the ground and had a grapevine rope by means of which we swung back and forth over the deepest part of the swimming hole. When we tired, we dropped into the water. Most of the boys who lived in Pinckneyville took their baths here. We had water fights in which we squirted and splashed water over each other's faces and heads. We also had swimming races from one end of the swimming hole to the other.

Today, Pinckneyville has bathtubs and bathing suits which are worn by men, women and children as they sport in the city-owned artificial lake. The old swimming hole is gone forever. Farewell old swimming hole, you gave me much enjoyment when I was a boy.

CHAPTER IX

Professional Life

I have had two professions. First, I taught school for five years. I enjoyed teaching and have many pleasant and a few embarrassing memories of those days. When I was graduated from high school, I went to St. Louis to work for the Hamilton-Brown Shoe Company. I was employed as a "pull-over." My duty was to take a shoe pattern which had been cut by a "cutter" and pull it over a wooden last and tack it with small tacks to hold it in shape. I would place these shoes on a rack from which they were taken by a man who sewed on the soles. I was paid by the pair; we worked very fast. There were many men engaged in pull-over work. They were constantly losing their supply of wooden lasts. One man found some co-worker had taken several of his lasts which were for a right shoe. When I was eating my lunch, he took the extra left shoe lasts put on his rack by the man who took his right lasts. When I returned to work, I had only left shoe lasts on my rack. I made 48 left shoes. When my error was discovered, I was called to the Superintendent's office. He discharged me and I decided I would go home. Upon my arrival, Father told me the directors of the Nation School wanted to interview me about employing me to teach in the school. I met them and after questioning me, they offered me the position. I asked what my salary would be and I was told it would be $30.00 per month for a five-month term. I said I wanted $35.00 per month. The directors were reluctant to recommend this sum, fearing I might not get the position. I of-

fered to split the $5.00 difference and I inadvertently suggested $33.33 per month, instead of the correct figure of $32.50. They accepted my offer and none of us noticed the mistake I had honestly made, for I was paid $33.33 per month throughout the term. At the close of the year they offered to employ me for another year and pay me $35.00 per month, but I had applied for a position in the Pinckneyville School and had been assured my application would be approved. The next four years I taught at Pinckneyville. At the end of this period, my cousin, William A. Biby, told me he had resigned his position as Deputy Circuit Clerk and Recorder and that the clerk would appoint me to the position at a salary of $50 per month. I told him I would accept it. I worked in this office for three years.

I soon found that I could usually have all my work done in the morning hours—my work, except when court was in session, was recording deeds, mortgages and contracts. During court sessions, I recorded court decrees and judgments, by using a typewriter, on which I used the "pick and peck" system: that is, I typed by using two fingers only. I soon acquired speed and easily completed my daily work and had several hours of idle time left over.

My ambition, when I was graduated from high school, was to study medicine. I learned it would take seven years to become a doctor and that the expense entailed more than I could manage. My next choice was to study law. I decided I would be a lawyer and immediately enrolled with the Chicago Correspondence School of Law. Each week I received by mail the subjects I was to study during the week and a list of questions to be answered and mailed to the school. I studied diligently in the office and often until midnight in my home. I never failed to receive excellent grades and after my final examination, the president of the school wrote me a letter in which he stated my grades were the highest any of its students had ever received.

I had a young friend who was a doctor practicing at Emmett, Idaho. While visiting in Pinckneyville, he told me Emmett was growing rapidly and had no lawyer. He urged me to complete my law studies and locate there. The Federal government was spending much money to provide irrigating facilities for the thousands of acres of land on which homesteaders were settling. I decided this might be a good opening and that I should make a special study of the law of water rights.

One warm summer evening, as Father and I were sitting on our front porch talking and fighting the mosquitos, I told him that I wanted to go to Los Angeles and study more law and that I could finance all my expenses. He agreed to my plan. We often discussed my future. As we pursued the subject, he said he believed the best way for me to get started on a successful legal career was to get employment in the office of some lawyer who had had years of experience, work hard, and when my employer died or retired, I could succeed to his practice. I knew no one in Los Angeles who could assist me in getting employment in a law office.

I resigned my position as Deputy Circuit Clerk and Recorder and left for Los Angeles on August 28, 1908. Upon my arrival in Los Angeles, I enrolled in the College of Law of the University of Southern California. The Dean told me, that I would be given credit for the time I had studied in the correspondence school and that if I took the summer course, I could graduate in two years. The study of law was easy for me. I often burned the "midnight oil," so eager was I to make good grades. During the summer of 1909, I took the examination given by three judges of the District Court of Appeal for a license to practice law in California. I passed the examination and received my license in July 1909. Had I waited until I graduated, I could have been admitted on my diploma. I did not approve of making law-

yers in this manner, so followed the more difficult course of taking the examination.

I continued as a student in the Law School and graduated in 1910 with an average grade of 98.3, which was second highest to a grade of 98.5 received by Charles Bagly.

Oscar A. Trippet was an elderly lawyer, with a good practice, who had an enviable reputation for integrity and abilty. When I interviewed him, I told him I had worked my way through high school by gathering men's laundry on Wednesday afternoons and delivering it on Saturdays, and that I was then working as librarian of the law school to pay my tuition. I also told him I had brought $500.00 to California with me, which represented my savings towards the expenses of a legal education. He told me that my experience in getting a legal education was much like his.

He also told me he had come to California when he was 21 years old and located in San Diego. He further said he had had no money when he came to San Diego, that he slept on a cot in his office and kept it in a closet in the daytime, that for some time he prepared and ate his meals in his office.

He asked me what salary I would expect to be paid if he employed me. I told him I wanted the position primarily to gain experience rather than merely to earn money. I added: "You employ me, wait until I have worked one month for you and then pay me what you think I have earned." At the end of the month, he gave me a check for $25.00. As he handed it to me, he said I had earned more and that when I graduated he would ask the young attorney who then worked for him to resign and he would give me his position at a salary of $50.00 per month. I was overjoyed and entered upon my employment, determined to make good.

In 1912, he made me his associate at a salary of $150.00 per month. In 1914, he and Ward Chapman with Max Chapman, who was Ward's brother, formed

The author in Cap and Gown

The author in his office

a partnership and I was a junior partner. The firm name was Trippet, Chapman and Biby.

Mr. Trippet was like a father to me. Today, his picture hangs on my office wall. President Wilson appointed Mr. Trippet to the office of Judge of the U.S. District Court at Los Angeles; he served with distinction until his death in 1925. Today, his widow is one of my best friends. After Mr. Trippet assumed the duties of his office, I was associated with Ward and Max Chapman until I moved my office to my residence in 1945. At that time, I intended to retire and spend much time travelling with my wife. My plan was never realized because of a heart attack she suffered; she was ill with this trouble until her death in April 1951. During the interval, I continued my law practice which was financially as good as when I maintained my office downtown.

The law is a hard taskmaster. I often worked in my office until midnight. I tried many lawsuits, one of which was tried for forty days of actual trial. It extended over a period of three months being interrupted by the illness of several witnesses, attorneys and parties to the action; Judge Russ Avery presided at the trial. I had filed the suit to recover $300,000 based on fraud committed against my clients, who were nine of the most prominent businessmen in Los Angeles. They included four Bankers, the President of a large wholesale business, a prominent Realtor and Judge Trippet. The defendants were a very wealthy businessman and his man "Friday." His man "Friday" was the principal perpetrator of the alleged fraud. Judge Avery rendered a judgment in favor of the plaintiffs which, with accrued interest and costs, amounted to $375,000. Henry O'Melveny, whose firm represented the defendants came to my office and handed me a cashier's check for $375,000 and said the judgment would not be appealed. In this case I received the largest fee which I have ever received for my services.

My first trial was against the Southern Pacific

Railroad Company for damages resulting from backing a train without giving any warning signal into an automobile stalled on the track. A woman was killed and two persons injured. The plaintiffs were clients of Mr. Trippet. He assigned the duty of preparing the case for trial to me. I had worked hard in the preparation of this case, personally interviewed all the witnesses and typed their written statements which they signed. I had also very carefully prepared a trial brief covering the law of the case.

On the day of the trial, when the case was called, Mr. Trippet told me to proceed. I thought he was to try the case. I was very nervous when I made the opening statement on behalf of the plaintiffs, yet he knew I had the case well in hand when he asked me to take over the trial. The defendant was represented by W. I. Gilbert, a veteran of the Los Angeles Bar, who tried damage cases almost daily. The jury rendered a judgment in favor of the plaintiffs. After the trial, Mr. Gilbert said to me: "John, that is the worst defeat I have ever suffered in my long career trying damage suits." Mr. Gilbert and I were close friends until his death a few years later.

I believe the most serious mistake I ever made in my practice was when I was trying a damage suit before a jury. A witness had lied on the witness stand and I knew his testimony was a deliberate lie. In my oral argument, I analyzed this witness' testimony, read it to the jury and then said, "Gentlemen, this witness deliberately lied and you know it." Without his testimony, the plaintiff would have won the case. Evidently the jury were not impressed by my argument and rendered a verdict for the defendant. Ironically, Mr. Gilbert was the attorney for the defendant. After the trial, he said to me: "John, this verdict makes our contest even. The witness you criticized did lie and you should have won the case."

This trial taught me a valuable lesson. Afterwards, I changed my procedure and praised the attorney who opposed me, and when I argued a case, I stated

the facts as I believed them to have been proven and applied the law to these facts. I tried many cases thereafter and lost very few of them.

I had several amusing experiences in my law practice. One time I filed a complaint covering twenty pages. A demurrer was filed by the attorney for the defendant. We argued the demurrer before Judge Grant Jackson for an hour before a courtroom crowded with attorneys waiting to argue their cases. The attorney opposing me argued that I had failed to make one material allegation in the complaint. When he concluded his argument, I pointed out to Judge Jackson that the fact, which the attorney for the defendant claimed had been omitted. was alleged and I asked Judge Jackson to look at the complaint while I read it. He did so and said: "Yes, I see it is alleged but I have allowed this argument to go on for an hour, it is a long complaint, and I think the allegation should have been stated on the first page instead of at the end of the complaint." He then sustained the demurrer and told me I could have ten days to file an amended complaint.

The attorneys who heard the decision smiled as I left the courtroom. I rewrote the complaint and made the allegation on the first page.

One time, at the opening of a trial before Judge Taft in which I represented the plaintiff, I saw him write a few words on a small slip of paper and put it under the blotter on his desk. At the close of the trial, he took this paper, looked at it and said: "Judgment for the plaintiff."

I never learned why he wrote the memo. It may have been that after reading the complaint, he concluded the judgment should be for the plaintiff if I proved the facts alleged.

The first trial I ever conducted outside of Los Angeles was at San Luis Obispo before Judge Unangst. Mr. Trippet had two clients who had secured an option to purchase 1000 acres of wildcat oil land in San Luis Obispo County. By the terms of the option,

it had to be exercised within ninety days. They made experimental tests for oil and exercised the option. In the meantime, the owners had agreed to lease the land to the Union Oil Company and refused to comply with the option.

I filed an action based on the defendant's refusal to make the lease. The trial lasted two weeks. At the close, Judge Unangst looked at me and said: "Mr. Biby, you and your clients are strangers to me. You live outside of San Luis Obispo County. The plaintiffs live in this County. I personally know each of them and know they are honest. Therefore, I will sign a judgment in their favor."

Such grounds for a decision were absurd. I had the court reporter make me a copy of what Judge Unangst said so that I might show it to Mr. Trippet when I returned. I handed it to him and said: "The grounds for this decision are so absurd, I wanted you to read a copy of it." He did so and replied: "It is both absurd and ridiculous." I advised an appeal but the plaintiffs did not want to stand the expense and the judgment became final.

In my 48 years as a lawyer, I tried more than 400 cases and lost fewer than 50.

In later years of practice, I specialized in corporation and property law and income tax matters. I have represented many of the largest corporations in Los Angeles County. I was attorney for the owners of 2800 acres of land now occupied by Central Manufacturing District and several thousand home owners in the City of Maywood. I was its first City Attorney.

I have organized several hundred corporations including four mutual water companies for one of which I have been its attorney since 1924 to date.

My professional conduct won me the confidence and esteem of judges, my brother lawyers and the public. I have served as Superior Court Judge pro tem, without compensation, in many cases during periods when the regular trial calendar was so congested, trials could not be held for eighteen months.

I was appointed receiver by Judge Emmet A. Wilson to take possession and manage the business of many corporations engaged in litigation. These included the management of the Bit of Sweden for ten months, a water softening company, a school to teach sewing, the eleven-story Metropolitan building at Fifth and Broadway in Los Angeles, the sale of which for $1,300,000 to J. J. Newberry Co., I negotiated as attorney for the owners in 1951, and the nationally famous case of Jackie Coogan against his Mother and Albert Bernstein, his stepfather. The newspaper and radio publicity about this case gave me national publicity. Even my home-town newspaper in Pinckneyville, Illinois, when the editor read I was the receiver in this case, published an article about my appointment under the heading, "Home Town Boy Makes Good."

In the Coogan case, I was ordered to take possession of two motion picture companies, an agency for the sale of Miller Hi Life Beer, Mrs. Bernstein's 25-carat diamond ring, her home and her property, Bernstein's money-lending business, and the original cancelled check for $500,000 paid to Jackie for his playing in "The Kid" with Charlie Chaplin who wrote and produced it. I was then an Elder in the Wilshire Presbyterian Church. Being such an Elder, I did not wish to engage in the sale of beer. With consent of Mrs. Bernstein's attorneys, Katz and Gittelson, and at my request, Judge Wilson released the Bernstein Beer Agency, his loan shark business and Mrs. Bernstein's home.

I was receiver in this case for eleven months. The case was settled by compromise, pursuant to which Jackie and his mother each received half of the property, which I held as receiver. When I was appointed, this property was appraised at approximately $250,000. After Jackie paid his attorneys, he had little left. Jackie was then married to Betty Grable. They were in my office several times and I was impressed with the demonstration of their love for each other. I am

happy to note in the newspapers that Jackie is again making good as a nactor in motion pictures and I wish him continued success.

When I took over the management of the Bit of Sweden, I called the 35 employees to a conference and told them I did not intend to make any change in the personnel and would retain Mr. John Berglund, then the assistant manager, to manage it under my supervision. I asked each for his or her support so long as I was managing the business. When I took over this business, it was operating at a heavy loss each month. When I released the business to its then owner, it was making a substantial profit each month.

It was the custom of the Bit of Sweden to give its employees and their wives a Christmas party after the close of the business on Christmas Day. I told them the annual Christmas Party would be given as usual and that Mr. Berglund would be in charge of all the arrangements. He requested me to make a speech at the dinner table. I accepted. In my opening statement, I addressed them as "Brother and Sister Swedes"; practically all of them were of Swedish descent. They looked at me in amazement as they did not know I was of Swedish descent. I told them I was a grandson, eight times removed of Philip Mollky, a renowned Swedish sailing vessel owner. They were glad to know I was of Swedish descent. After dinner, presents purchased by Mr. and Mrs. Fred Glow, then the owners, were presented to them. They gave me a beautiful genuine leather wallet, with my name on it in gold letters and one of our pleased customers sent me a two-pound box of chocolates which then, because of the war, could not be purchased at retail.

The management of this business gave me much pleasure and one headache, which I distinctly remember. It was insubordination on the part of Mr. Berglund, who was much admired by all of the employees. He was ambitious to manage the business without my control over him. He requested the employees to sign a petition addressed to Mr. and Mrs.

Glow, asking them to permit him to be the sole manager.

Mr. Glow gave this petition to his attorneys and they advised him that only the court could change my authority as sole manager.

Mr. Glow advised me of the petition. I called Mr. Berglund into my private office and told him I knew of his request to the employees asking Mr. and Mrs. Glow to make him sole manager. I also told him I was not angry but, on the contrary, I felt sorry for him and realized that he felt embarrassed to work under the supervision of an attorney who had no experience in managing a cafe.

I gave him a fatherly talk and told him, if he would apologize, I would not discharge him. He asked if he could delay his answer until morning and I agreed. The next morning he told me he had spent a restless night, had told his wife what he had done and he was heartily ashamed of his conduct and asked me to accept his apology, which I did. Thereafter, as long as I was the receiver, he was loyal and gave me his hearty support.

CHAPTER X

Public Service

From the time I was a small lad and carried a lighted torch in the Harrison and Morton campaign in 1888, I have always been interested in politics. I was very active in the election held in Pinckneyville in November 1908, which was the year I came to California. I was the chairman of the committee supporting Local Option. In support of our campaign for a dry town, I visited several southern Illinois cities which had no saloons and gathered much data showing the reduction of crime, fewer arrests, increased volume of sales by retail stores, the time lost by workmen while sobering up, happier homes and many other interesting facts.

I wrote advertisements quoting the records on some of these facts and statements made to me by prominent businessmen, ministers, police officers and judges residing in these towns. To these facts, I added my conclusions.

The committee favoring Local Option paid to publish these advertisements in the Pinckneyville Advocate and the Democrat each week before the election.

Pinckneyville had eight saloons which would close if Local Option carried. The owner of one of these saloons was Emil Boquilion. Early in August 1908, he called on me in an effort to stop my advertising campaign and other efforts I was making on behalf of Local Option. He said he had been told I was planning to go to California soon after the election. He then said: "If you would leave now, we will give you $50.00 cash and a one-way ticket to California."

I told him his information as to the date of my departure to California was not correct and that I expected to depart on the 27th of August. I then said to him, "You saloon keepers can save your money. You cannot bribe me and I am sure that Local Option will be voted, though I am not here on Election Day." When the election was over, the votes showed Local Option had carried. In the campaign, I made many personal calls to interview voters who were opposed to Local Option. One of these was Sherman Gladson. He was the town drunk and seldom a day passed that he was not found lying in the street. As I reasoned with him and plead for his vote on Election Day, he said: "John, you know the Bible says: 'Take a little for your stomach's sake.' " I felt he was then too drunk to remember anything he said and I left. Later on, I reasoned with him again and he promised to vote as I desired. I doubt very much that Sherman's vote was one of the majority.

When I came to California in 1908, the Southern Pacific Railroad Company controlled the State's politics. Mark Herron of San Francisco, an attorney for the railroad, was the "Political Voice of the State." Bribery of legislators was common. If the Southern Pacific was in doubt about the passage of any law which it desired to be adopted, one of its paid henchmen would visit a legislator who opposed the proposed law. He would promise such legislator as much as $1000 if he would vote in favor of the adoption of the law. The legislator was told to leave open the transom over the door, which led into his room, when he retired that night. The next morning the legislator would find the money in currency on the carpet in his room where it had been thrown by the Southern Pacific's henchman.

I was physically incapacitated for military service in World War I, but I volunteered to serve as an attorney without salary in the Adjutant General's office to participate in court-martial proceedings. The war ended and my services were not needed. I served on

the Draft Board as an interviewer of men who had been drafted and who claimed to be exempt from service. I interviewed several hundred of these men. Many of them were young married men, some with children and some without, some who expected to be married soon, some who were paying for their homes and were afraid they would lose them because of inability to make regular monthly payments on mortgages, some who were religiously opposed to war, and many others who did not want to enter the service.

I also delivered three-minute speeches in many motion picture theatres. My first assignment was in the Broadway Theatre at Broadway and 8th Street in Los Angeles where I spoke twice each evening. The show was Will Rogers in the "Two Gunman." I saw it 12 times that week. I was glad when I was assigned to a different theatre.

I travelled two weeks throughout Southern California, Arizona, and New Mexico, delivering speeches to arouse the people to purchase Liberty Bonds. The train was made up of a diner, two Pullman cars, two regular passenger cars and two flat cars, on which there were many war relics. It was a Santa Fe train and Mr. W. R. Jeffries had a private car attached to the train and supervised its schedule.

We had an advance agent who preceded the train and advertised the time and place of its arrival. On the train, we had a train crew, a chef, a 6-man band, two soldiers, one who had lost an arm on a battlefield; the other was from Australia and wore kilties. At each stopping place, these men were introduced to the audience. The Australian had served in the famous "Ladies from Hell" brigade. He had been gassed and was unable to continue in active service. As the train approached the city where we were to speak, aerial bombs were fired from a cannon, the band played and all persons on the train stood in a line on the flat car. When the bombs exploded, men, women and children came from every direction in

Liberty Loan Special

automobiles, wagons, buggies as well as hundreds on foot.

We did not take subscriptions for bonds but did make an exception for a lady who wanted to subscribe for one. The train had stopped for water at a watering place, high on a remote mountain in New Mexico. The only people who resided there were the man who cared for the tank, and his wife. At this stop, she appeared at the car where I was standing and told me she would like to buy a $50.00 bond. She explained she had been saving for several months to buy this bond but that she lived too far from any city where she could place her subscription, and therefore wanted me to take it. I consulted my associates and we decided to take her subscription and arrange for the bond to be mailed to her later. She gave me the $50.00 i npennies, nickels, dimes, quarters, and fifty-cent pieces. In all, she gave me 1100 pieces.

This event was so novel and of such great advertising value that I wired the story to the *Los Angeles Times* which published it under the heading, "Mountaineer's Wife Buys Liberty Bond." It then continued with a complete story including her payment of 1100 pieces giving the exact number of pennies, nickels, dimes, quarters and fifty-cent pieces.

After a program had been held, all persons on the train were usually given a dinner prepared by public-spirited ladies of the city where we spoke. A parade headed by our band was formed in which all persons on the train and often hundreds of citizens marched to the place where we were served our dinner.

The "Lady from Hell" always disappeared as soon as the program was completed and did not return to the train for many hours. He was a "ladies' man" and the ladies swarmed about him like bees. His absences were due to his acceptance of invitations to have dinner and spend the evening in the home of some lady.

Mr. Jeffries had a chef in his private car and a well-stocked refrigerator. Frequently, he would

invite some of our group to have luncheon with him in his private car. I was his guest several times. We became friends. He told me if I ever desired train transportation, which was difficult to get during the war, I should telephone him and he would send my railroad and pullman tickets to my office. I often used his services and he never failed to secure the reservation I desired. I left the train at Taft, California, and returned to my home in Los Angeles. This trip was one of the most interesting I have ever taken.

During World War II, I served as a volunteer worker on the Ration Board. I was in charge of the rationing of gasoline. All persons owning and driving automobiles could receive coupons entitling them to 180 gallons of gasoline for driving during the next three months. Gasoline purchased with these coupons could be used for pleasure driving. With this amount of gasoline, a driver could drive an average of only six miles per day—these were Class "A" coupons.

Drivers of automobiles used for a business or a profession received "B" coupons sufficient to purchase enough gasoline during the next three months to drive 600 miles or an average of 20 miles per day. Coupons were not transferable.

Violators could be punished by revoking the coupons that had been given the violator and requiring the violator to put his car in storage for a designated time. To determine whether the car had been driven during the period it was to be in storage, the driver was required to give me his speedometer reading on the day his coupons were revoked and to bring his automobile to the office of the Ration Board at the end of the allotted storage time, when his speedometer was read and compared with the first reading.

Many violators were discovered this way. Such violators were punished by requiring them to put their cars in storage for a much longer period.

During the period I served on the Board I penalized

more than 100, yet I never found one colored person who was a violator. I interviewed a prominent Los Angeles minister who was allowed only "A" coupons. When he applied for his coupons, I learned he was driving many miles in excess of the amount he could drive with his allowance. A neighbor of his informed me this minister was frequently driving his Cadillac automobile to Palm Springs and Santa Barbara on pleasure trips. I requested him to call at the office of the Board. At the interview, he said friends had given him the extra coupons and admitted he knew coupons were not transferable. I required him to put his car in storage for three months.

Another applicant who styled himself a minister was preaching to large audiences in Los Angeles. I learned he was not an ordained minister of any church denomination, that he resided in San Fernando Valley and drove to Los Angeles every day. I knew he could not make these daily trips on his allowance of coupons. He refused to tell me where he got extra coupons. I denied his application and required him to put his car in storage. He decided to take a vacation from his work and close his so-called church.

Professional men included, besides ministers, lawyers, accountants, doctors, dentists, teachers, realtors, and others.

A driver of an automobile, who was under sixteen years of age, was not allowed any coupons. One young man, fifteen years old, whom I interviewed, came to the office accompanied by his father who was very angry and showed it. An applicant had given me an ore-bearing rock which I used as a paper-weight. This angry father picked up the rock and in a threatening voice said, "I would like to smash your thick skull with this." His son said, "Let me have it and I will smash him." This father then seemed to realize the seriousness of his words and apologized to me, saying, "His temper got the better of him." His son did not get any coupons.

I served on the Ration Board from 2 to 5 P. M. each day, except Saturdays, when the office closed. My experience in this work brought me a keen appreciation of human nature and its weaknesses.

The Board of Governors of the State Bar appointed me Chairman of Special Local Administrative Committee No. 1. The Committee was charged with the duty of investigating the conduct of attorneys reported in violation of the regulations adopted by the Board of Governors.

The most frequent of these violators were known as "Ambulance Chasers." This term originated from the shady practice of attorneys and their "Fridays," who assisted the attorney violator.

When such assistants heard of an accident in which a person was injured, they often chased the ambulance carrying the injured person to a hospital, where they interviewed and persuaded the patient to sign a letter addressed to the attorney for whom "the chaser" worked, which letter the attorney had prepared. It authorized him to take full charge of the case and to file an action for damages, compromise the claim and take such further action as he deemed advisable.

At the time the Committee of which I was chairman was organized, ambulance chasing was so prevalent, it was bringing disgrace to the legal profession.

The Board of Governors furnished an office for the use of my Committee, employed a full-time salaried investigator to examine alleged violations, empowered me to put witnesses appearing before the Commitee under oath before testifying. The Committee met, at the call of the Chairman. When the investigator thought he had evidence sufficient to warrant the conviction, he would advise me whereupon I called a meeting of the Committee.

Of all the known ambulance-chasing attorneys, Bingham Gray was the most successful. He maintained an elaborate suite of offices and employed a staff of "chasers" and doctors.

When Gray received the letter, which one of his henchmen had secured from an injured person, authorizing him to act as the injured person's attorney, he would immediately visit his new client and make flattering promises to him about the large amount he would recover for him as compensation for his injuries.

In the letter, he was authorized first to deduct all expenses he had incurred including his fee which was usually 50% of the amount recovered if a court action was filed, or 40% if the claim was compromised. The balance remaining was divided between Gray and his client.

The expenses included hospital and nurses' charges, doctor's fees, money paid his henchmen for interviewing witnesses and other miscellaneous charges. Often these expenses and his fee took all of the amount recovered and his client received nothing. Such treatment caused some of his clients to inform my Committee of his conduct. We were informed that their injuries did not require hospitalization or a nurse and they said Gray told them that by going to a hospital and staying several weeks, he could recover a much larger amount of damages than otherwise. The patient was attended in the hospital by one of Gray's staff of doctors who kept him in the hospital as long as Gray desired.

One of Gray's clients, who was put in a private hospital by Gray, received a very small part of a large sum the lawyer collected. He came to my office and told me he was going to call on Gray and try to make a fair settlement with him and if he was not successful, he would go to the district attorney and ask for Gray's arrest on a charge of embezzlement. Gray refused to make any settlement. This man came to my office before going to the district attorney. I took his statement under oath which was typed and signed by him and sent it to the district attorney. I told this man to do nothing further until we heard from the district attorney.

The district attorney made arrangements to place a dictaphone in Gray's office with a recording machine in an adjoining office. By this means, sufficient information was received to give us leads to be further investigated. These leads developed evidence sufficient to disbar him and also to justify his arrest on a felony charge.

He was indicted by the Grand Jury, tried, found guilty and sentenced to the penitentiary. His disbarment by the Supreme Court automatically followed his conviction.

One of Gray's clients was a distant cousin of mine. She had been riding as a guest in an automobile driven by a friend, who had stopped for a red signal. When he drove on, an automobile struck his car in the rear, causing the door of the car, in which my relative was riding, to come open and she fell out. As she fell, she grabbed hold of the car and was dragged on the pavement for quite a distance. Her legs were burned but she was otherwise uninjured.

One of Gray's henchmen caused her to sign one of the letters Gray prepared and when it was given to Gray, he immediately called at her home. He told her he could secure a much larger sum as compensation for her injuries if she would go to a hospital.

He had her taken to a private hospital where she was treated by Gray's doctors and attended by a nurse. She knew there was no necessity for putting her in a hospital; she stayed until she could stand it no longer and she demanded that the doctor release her and that Gray take her to her home. This was done. Gray wrote the company, which insured the driver of the automobile that had hit the one in which she was riding, that he desired to confer with its attorneys respecting a settlement of the case. A meeting was arranged and a settlement made pursuant to which the insurance company paid $5000. Gray deducted all his expenses and his fee from this amount and had only $1000 remaining. He gave his

client $500 of this amount, which was more than she deserved.

The Los Angeles Bar Association held one of its annual Christmas parties at the Breakfast Club on Los Feliz Boulevard. More than one thousand attorneys and their friends were in attendance.

The Committee arranged a mock trial of an ambulance chaser. The judge was a prominent local Superior Court judge; prominent attorneys were jurors; the clerk, bailiff, and witnesses were all prominent attorneys.

The defendant was Ringham Prey. All the attorneys knew this was a play on the name of Bingham Gray.

Witnesses for each side were heard, and at the conclusion, the judge, in giving his instructions to the jury, said that in his opinion the evidence was not sufficient to sustain a conviction and he would instruct the jury to return a verdict for the defendant. Before declaring the court adjourned, he said to the defendant, Mr. Prey, "If you are an ambulance chaser, you had better cease or John Biby's Committee will get you."

Some of the attorneys loudly acclaimed, "Look out, Prey, Biby's Committee will get you," which was taken up by many attorneys and turned into a melodious chant.

In one type of Gray's cases, a doctor from his paid staff would dislocate the sacroiliac of one of Gray's paid employees. This dislocation made one leg shorter than the other.

A doctor from Gray's paid staff put this man in a private hospital where he received expensive care. An action was filed in the Superior Court for damages. At the trial of the case, the alleged injured party was brought into court in a wheelchair by the doctor who had been treating him. He claimed he could not get out of his chair and into the witness chair to testify and the court permitted him to testify from his wheelchair. The jury was much impressed

by this procedure and led to believe the plaintiff's injuries were very serious. A verdict for a large amount was returned by the jury. Soon after the trial, the doctor would place the sacroiliac back into its natural position and thereafter the alleged injured party was in as good physical condition as before.

I was invited to speak at a breakfast meeting of the Insurance Adjustors' Association in the Los Angeles Athletic Club. Governor Knight, who was then a judge of our local Superior Court, was also invited to speak.

The following is a copy of the address I delivered:

CHASING AMBULANCE CHASERS

The duty of investigating and instigating prosecutions of persons, both attorneys and laymen, who solicit employment to recover damages arising out of tort actions, rests upon SPECIAL LOCAL ADMINISTRATIVE COMMITTEE NO. 1 OF THE STATE BAR of California. The appointment, organization, original personnel, powers, duties, and activities of this committee prior to January 1935, are set forth in an article heretofore published.

The personnel of this committee now is John E. Biby, chairman, William E. Simpson, vice-chairman, John M. Bowen, secretary. It has the full time services of Herbert Hallner, an experienced investigator. Mr. Philbrick McCoy is the committee's chief counsel.

Regular meetings are held in the office of The State Bar at 440 Rowan Bldg., Los Angeles, on each Monday at the hour of one o'clock P. M.

The committee has broad powers including the right to subpoena witnesses and examine them under oath. At the conclusion of an investigation, the committee, if satisfied with the facts established, pursues one of several remedies. It could refer the case to the City Attorney's office for violation of the State law or to the City Attorney's office for prosecution under the city ordinance which makes it unlaw-

ful and imposes a heavy penalty for soliciting employment in personal injury cases. If an attorney is involved, the committee, in addition to the remedies above mentioned, could refer the case to one of the disciplinary committees of The State Bar for trial. The committee to which the matter is referred conducts the trial of the respondent upon such charges as the facts may warrant. If this trial committee finds the respondent guilty, it may recommend as discipline, either public or private reproval, suspension or disbarment. Should suspension or disbarment be recommended, a transcript of the evidence received by the disciplinary committee is transmitted to the Board of Governors with the committee's recommendation. The Board of Governors administers reprovals both public and private. Where suspension or disbarment is recommended by the disciplinary committee, the Board of Governors reviews the evidence and may adopt the recommendation of the disciplinary committee, or modify its recommendation, or impose such other punishment as the Board of Governors determines is justified by the record. Should the Board of Governors determine that the record justifies suspension or disbarment, it sends its recommendation to the Supreme Court with the record of the proceedings. The Supreme Court may approve or reverse the decision of the Board of Governors.

As a result of the activities of Special Local Administrative Committee No. 1, many ambulance chasers, both laymen and attorneys, have been prosecuted criminally and before disciplinary committees of the State Bar.

During the time I was a member of this committee it investigated ambulance chasing activities of sixteen attorneys and nineteen laymen. In connection therewith, it has taken the testimony of sixty-one witnesses under oath.

Of the cases investigated, three involving attorneys and three involving laymen were referred to the District Attorney's office for investigation as to

whether any laws other than those making solicitation unlawful had been violated.

Six cases involving laymen were referred to the City Attorney's office for prosecution under the city ordinance.

The City Attorney's office caused complaints to be filed for violation of the above mentioned city ordinance in each case referred to it. In four cases Defendants pleaded guilty and the fifth was tried and found guilty. Three were sentenced to serve 180 days in the city jail; one, a woman, was sentenced to serve 180 days on one count and to pay a $500.00 fine with the alternative of serving 180 days in jail on a second count; one was sentenced to jail for sixty days and in one case, the defendant is now awaiting trial.

ATTORNEYS INVOLVED

This committee referred seven of the cases which it investigated involving attorneys, to disciplinary committees for trial. In one case the respondent was suspended from practice for a period of one year. In another, disbarment of the respondent has been recommended. In two, the respondents were found not guilty; one case was dismissed because of insufficient evidence and in two cases, the respondents are now awaiting trial.

Four investigations of attorneys have not yet been completed, and in other cases involving five attorneys and thirteen laymen, prosecutions were not recommended because of insufficient evidence.

All proceedings before Special Local Administrative Committee No. 1 are conducted in accordance with rules established by law and by the Board of Governors of The State Bar. These proceedings in general respect, are like unto proceedings before a court of record. A stenographic record is made of the examination of all witnesses. When a case is referred to the office of the District Attorney or City Attorney for prosecution, a transcript of all testimony

taken by the committee is available for the prosecutor's use.

LOS ANGELES ORDINANCE

An ordinance adopted by the City of Los Angeles has proven very effective as a remedy against ambulance chasers. It applies to both attorneys and laymen who solicit tort actions. Long Beach, Signal Hill and Los Angeles County have adopted similar ordinances. The 1935 Legislature adopted a statute (*4) of similar effect but this statute failed to become a law because of a pocket veto. Until we have a Statewide law prohibiting the solicitation of employment arising out of tort claims, each city and each county should adopt an ordinance similar to the Los Angeles city ordinance mentioned. For the assistance of those interested in such legislation, a copy of said ordinance follows:

"Ordinance 73,706.

An Ordinance prohibiting the solicitation of tort claims or choses in action, and providing penalty for violation thereof.

The People of the City of Los Angeles do ordain as follows:

Section 1. The word 'person' as used herein shall include any corporation, association, society, club copartnership or individual.

Section 2. It shall be unlawful for any person to solicit employment for himself or for any other person, either directly or through some other person acting on his behalf, to prosecute, collect, settle, compromise or to negotiate for the settlement, compromise or collection of any tort claim, on behalf of any tort claimant, in which he himself has no pecuniary interest arising from such tort.

Section 3. The provisions of this ordinance shall not be construed to prevent joint tort claimants from negotiating with each other for the purpose of combing respective claims or actions against the tort feasor.

Section 4. Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment in the city jail for a period of not more than ninety (90) days or by both such fine and imprisonment.

Section 5. The City Clerk shall certify to the passage of this ordinance by a unanimous vote and cause the same to be published once in The Los Angeles Daily Journal."

POLICE RADIO "LEADS"

It is common practice for ambulance chasers to learn of an accident immediately after it happens through police short wave radio calls. Upon hearing such call, the chaser hastens to the scene of the accident. These calls are directed by the operator in charge of the broadcast for the police department to police officers patroling various districts throughout the city in automobiles equipped with radio receiving sets. A Federal code (*5) makes it unlawful for any person not being entitled thereto, to use any information contained in any Interstate radio communication for his own benefit. The penalty for violation of this law is a fine not exceeding $1,000.00 or by imprisonment not exceeding two years. In order to test the scope of this Federal law, Special Local Administrative Committee No. 1 of The State Bar recently requested the United States District Attorney at Los Angeles, to issue a warrant for the arrest of an alleged violator of this law based upon use by an ambulance chaser of information received from a police radio communication in the city of Los Angeles. After a careful study of the law, the District Attorney advised that the application of the Federal law was limited to interstate and foreign communications and did not apply to messages sent and received within the boundaries of the city of Los Angeles. Believing such a law could be effectively used, the

committee, through the cooperation of the office of the City Attorney of Los Angeles, is now endeavoring to secure the adoption of an ordinance by the city council of Los Angeles which will make it unlawful to use information received from a radio broadcast within the city of Los Angeles by one not entitled to use it. With such an ordinance in effect, the chaser who uses information received from a police broadcast, will subject himself to a penalty in addition to that imposed by the Los Angeles city ordinance above mentioned which prohibits the solicitation of tort actions.

CAMPAIGN BY LETTERS

The shrewdness of ambulance chasers challenges the ability of the committee and its associates. In order to be on the job as early as the chaser, the committee has adopted a plan pursuant to which it mails letters to each person injured in an accident. The police department of the city of Los Angeles, and the sheriff's office of the County of Los Angeles, cooperate with the committee by furnishing it with the names and addresses of all persons reported to have been injured in accidents. These reports are received daily. Form letters requesting the injured person to secure the name of the chaser or, if he does not give his name, the license number of his automobile, and report the same and his conversation to the committee, are mailed immediately after the name and address of each injured person is received. 3000 of such letters have been mailed during the past few months. These letters have proven a profitable source of information to the committee and in many cases, it has received active cooperation of the injured party with the committee's investigator who follows up all information so received without delay.

VETERAN CHASERS CAUGHT

Recently the committee was requested by two lay chasers who are now serving sentences of 180 days

in jail, for violating the Los Angeles city ordinance above mentioned, to grant them an interview that they might disclose all they knew about the ambulance chasing activities of certain attorneys. The committee obligingly granted the request. At the close of the interview one of these men was asked if he knew of the letters being mailed by the committee to each person injured in an accident and his reply was: "That is the best thing you ever did. After the first one I ever picked up, I knew it was just a matter of time until I was in jail."

The other of these two men said that after they learned of this letter being mailed . . .

> "one of us would say to the other each morning as we started out 'Do you think we will get back home tonight?' And sure enough it was not long until you got us and we went to jail instead of going back home."

These men are chasers of years of experience and each emphatically stated he was through for all time.

CHASING ON WANE

It is becoming more and more apparent that ambulance chasing in Los Angeles is on the wane. The reports from various casualty companies are to the effect that efforts made by lay chasers to settle damage claims are now negligible. The Superintendent of a casualty company which writes a very large proportion of the accident policies written in Los Angeles County recently stated that only one attempt had been made to settle a damage claim by a lay chaser in his office in the past six months. The lay chasers are now associating themselves with attorneys. The former solicits the case and the latter makes the settlement or files an action in court. Guided by the attorney, the lay chasers use devious means to protect the attorney. If the layman solicits at all, he is liable to prosecution but in order to convict the attorney, it must be shown the attorney had knowledge the chaser was acting on his behalf. Such

proof is often difficult. It is a common occurrence for the lay chaser to tell the injured party that it is unlawful for him to take employment to recover damages for the injured party but that he has an attorney friend who has been very successful in recovering damages for injured persons and that this attorney will take his case. The lay chaser then requests the injured party to call his attorney friend by telephone and to tell the attorney that he has suffered injury in an accident and that a friend has recommended him as a good attorney to handle the case and that he would like to see the attorney at once. In other instances, the lay chaser presents a form letter or writes a letter at the time addressed to the attorney, which he requests the injured party to sign. This letter advises the attorney of the accident and that he has been recommended by a friend, and requests him to call. In some instances where both telephone and letter were used, the attorney has called on the injured party with a form of contract covering his employment, to be signed by the injured party, before the letter could have been delivered in the regular course of mail. Such contracts often provide for a fifty-fifty division of any money received between the attorney and the injured person. The injured person is usually told that all expense including doctors', nurses' and hospital bills, will be deducted before division is made. When the division is made, the injured party first learns that all expenses must be paid out of his half only. Cases where the attorney has deducted one-half of the gross amount received, leaving the injured person without sufficient money to pay his expenses, are not uncommon.

PUBLIC OFFICIALS GIVE AID

The work of this commitee has been greatly aided by the cooperation and active support of the District Attorney of Los Angeles County, the City Attorney of the city of Los Angeles, the Sheriff of Los An-

geles County, the Chief of Police of the city of Los Angeles, the Mexican Consul, the General and Receiving Hospitals, and the officers and employees of numerous casualty companies.

The President of The State Bar, in a recent message said:

> "Ambulance chasing is like the eczema; Cure it in one place and it breaks out in another."

This statement illustrates the necessity of continuous effort on the part of The State Bar to completely eradicate the evils arising out of ambulance chasing. Earnest efforts to do so made by The State Bar of California during the past two years is evidence that it will be no less zealous in the future.

The Committee's activities resulted in the conviction of a large number of attorneys, doctors and friends who engaged in this type of legal practice. The work of the Committee received much publicity in the local press and ambulance chasing, except in a few cases, ceased. One attorney, Joe Fainer, was the second most active and successful ambulance chaser. After Gray's conviction, the Committee devoted its major activities to marshalling evidence against Fainer. One day he was in a courthouse elevator in which I was; as the elevator went up, he said to me, "Mr. Biby, I hear your Committee is after me. From this day, I quit ambulance chasing." After that, no complaints were made against him.

At the American Bar Association meeting held in Nashville, Tennessee, in 1929, I was elected a member of the Committee on Legal Education and Admission to the Bar.

This Committee met in Washington, D. C. and Chicago three times each year and once a year in the city where the American Bar Association held its annual meeting. I missed only one meeting, which was held in Chicago. I had my grip packed and was on my way to the train when I suffered a bad attack of appendicitis and went to the hospital instead of to Chicago.

I was to speak at the meeting and I had prepared and printed 500 copies of statistics covering the Admission of attorneys to the practice of law in the State of California during the preceding year. These statistics were separated into age groups from 21 to 65. It gave their educational qualifications, whether high school or college graduates, whether they studied in law offices, in colleges approved by the American Bar Association, the school each attended, the number of years spent in the school, the number who graduated, the number who studied in law offices, the number who took correspondence courses, those who attended no school, the number of times each had taken the Bar examination, the number who passed, the number who failed, the school where each studied, and other information which I deemed to be of value in determining pre-legal or legal requirements for a prospective lawyer. Although I was unable to deliver my address, it was read at the Convention and the statistical reports were distributed and later published in the American Bar Journal.

One result of my research in preparing these statistics proved to me that the educational requirements of an application for admission to practice law should be raised.

At the end of the meeting of the State Bar, held in Del Monte in 1928, I was requested to address the meeting on the subject, "Educational Requirements for Admission to Practice Law." In this address, I advocated a four-year course of study in Liberal Arts and no less than three years' study of law in a law school approved by the American Bar Association. Many years later, these requirements were adopted in California and in a majority of the other States of the Union.

The organization meeting of the State Bar was held in San Francisco in July 1927. This meeting was attended by about 1000 lawyers, many of whom were

ladies. I was asked to address this meeting on the subject, "Admission of Attorneys from Foreign Jurisdictions." The following is a copy of my address:

ADMISSION OF ATTORNEYS FROM FOREIGN JURISDICTIONS

The discussion of this subject will be based upon a consideration of the following points:

(1) Does the subject involve an existing problem?

(2) Comity and reciprocity.

(3) What action is advisable?

To enable proper consideration of the question whether a problem in relation to this subject exists in California, you should have definite information regarding the conditions existing in this State. The information following is from knowledge gained after personal examination of more than 1200 applicants during the past seven years, and from a familiarity with the subject arising from an endeavor to keep posted on the activities of the various Bar Associations and others interested in this subject.

The law of this State prior to 1919, when the Board of Bar Examiners was created, provides in substance as follows:

From 1872 until 1878, white male citizens only could be admitted upon motion. Since 1878 all citizens possessing the requisite qualifications might be so admitted. From 1921 until 1923, residence was required, but has not been required since the latter date. At all times subsequent to 1905, except during the period from 1921 to 1923, citizenship, or a bona fide intent of a resident of this State to become a citizen, has been required.

In 1919, the Board of Bar Examiners was created, and said Board has ever since examined all such applicants upon their character and experience.

Prior to 1919 no definite period of practice was required. From 1919 to 1923, actual practice over a period of three years was required; this three-year period might have been any number of years before filing an application. During this period many persons who had not engaged in practice for long periods of time sought admission to practice law in this State on motion. One such applicant had not engaged in practice for a period of 28 years preceding the filing of his application. His avocations during said period were varied and too numerous to mention. Another gentleman licensed to practice in a sister State whose law imposed no mental qualifications, filed an application—investigation showed his shingle announcing him to be an attorney at law had hung for more than three years below a window of his sleeping room—this room was over a saloon which the applicant had conducted from 1901 until the 18th Amendment was adopted. Other applicants who had not engaged in actual practice for periods exceeding ten years prior to the time of filing their applications, were engaged in such occupations as real estate, insurance, telegraphy, railroading, merchants, promoters, contractors, carpenters, barbers, cigar-stand and restaurant employees, and other similar occupations. The large number of this class of applicants caused the Board of Bar Examiners to recommend an amendment to our laws requiring three years' actual practice within a period of seven years immediately preceding the filing of an application. Such an amendment was adopted in 1923, and since that time has been in effect.

Prior to 1919 the subject of the admission of attorneys was under the exclusive jurisdiction of the Supreme Court, except for a period when Superior Courts were permitted to admit attorneys to practice in such courts only "upon strict examination in open court." Some of you remember how "strict" such examinations were. At all times prior to 1919 the law of this state reserved to the Supreme Court the right

to examine an attorney as to his "qualifications." This right, so far as the same was given or reserved by statute, has not existed since 1919, and it was not given to the Board of Bar Examiners respecting attorneys seeking admission on motion.

Since 1919 the statutory procedure for the admission of attorneys has been under the exclusive jurisdiction of the respective District Courts of Appeal. The practice of such courts has been to admit only such attorneys who had first received a favorable recommendation from the Board of Bar Examiners.

The amendment adopted in 1923 accomplished its purpose and incidentally imposed upon the Board of Bar Examiners the burden of determining whether the applicant had engaged in actual practice for the three-year period required. The endeavor of many applicants to convince the Board they were able to meet this requirement, sheds further light upon the character of such applicants. A large number who filed their applications and vigorously endeavored to show this qualification, were unable to do so. The attempts of various applicants to prove three years' actual practice within seven years preceding the filing of the application have ranged from the ridiculous to the sublime. For instance, one applicant whose application had received an unfavorable recommendation from the Board of Bar Examiners on the ground that he lacked this qualification, appealed to the District Court of Appeal to reverse the recommendation of the Board of Bar Examiners. His theory was that while not actually present in the state where he was licensed to practice, he had, since coming to California, practiced law in his home state by correspondence for a sufficient period, which added to his actual practice within said state, would meet the three-year requirement of our law. His appeal was denied. Notwithstanding such precedent, a recent applicant tried to distinguish the decision last mentioned as applied to his application, notwithstanding the facts

were the same. Others have deliberately lied regarding this period of actual practice. Of this class, it is a common experience to have the applicant make a return call a few moments after his personal interview with the examiner, and state that he was confused, or had forgotten certain matters, and would like to be permitted to make an explanation. This confusion arose most frequently when the applicant's actual practice was within a few months of the required three-year period; and, in many instances when he had been a defendant in some action involving charges of fraud, but which he failed to disclose when asked if he had been a defendant in any action. Another class is made up of criminals and near-criminals. Three applicants had been tried for murder —one for three separate offenses. Another served six months in a federal prison, having been convicted for sending obscene letters through the U. S. mail to a young girl.

Respecting the motives which prompt so many attorneys from sister states to seek admission to practice law in this state, the applicants seem to fall naturally into three classes, namely:

(1) Young men who have practiced a bare three years without meeting the success anticipated; or, having met such success, seek a more active field, and answer the call of the "west."

(2) A larger number who have tried and failed in their efforts, but who are ambitious to try in a new field. Of such it is no uncommon experience to learn that California is the last of many fields previously tried—such are the proverbial "rolling stones" that "gather no moss."

(3) Men of more advanced years who have met with a degree of success in their practice and in their finances. Such generally desire to retain the office of an attorney because they feel it is an honor, and many such desire to accommodate their friends and former clients from "Iowa," who now reside in California.

I do not wish to imply that this classification is complete. It embraces by far the great majority of applicants who seek admission on motion. It excludes, however, a number whose ability and character is beyond question, and whose presence in the state adds strength to the integrity and standing of our profession.

Further illustrating the character and ability of many applicants, I believe that should you select at random, say ten applicants for admission on motion, knowing nothing of the applicant, and read the stenographic report of the personal examination given the applicant by a member of the Board of Bar Examiners, you would have no hesitancy in saying that six of them do not possess the qualifications necessary to enable them to protect the interests of their clients, or do honor to the profession. You might feel without knowledge of the number of such applicants that even though some are of the types mentioned, yet a problem may not exist because the whole number of applicants is not sufficient to require any action. I will give you the figures taken from the records of our District Court of Appeal, Second Appellate District, during the last five months of:—

	1921— 49	such applications	were	filed —
In	1922—132	"	"	"
"	1923—258	"	"	"
"	1924—194	"	"	"
"	1925—160	"	"	"
"	1926—164	"	"	"
"	1927—217	(1st 10 months)	"	"
	Total 1,174			

Of this number the Board of Bar Examiners gave favorable recommendations to 1007. 167 of this number were found to be unqualified.

The First and Second Appellate Districts had perhaps 500, making a grand total of 1,674. In these Districts about 50 received unfavorable recommenda-

tions, making a grand total of about 217 out of 1,674 who were found by the Board of Bar Examiners to be unqualified. It must be observed that each of said applicants found to be unqualified, represented that he was qualified; some, no doubt, in ignorance of the requirements; others were mistaken as to the requirements; and a large number knew they could not meet the requirements but hoped to "get by."

Of the 217 applicants who have been given an unfavorable recommendation by the Board of Bar Examiners, without exception, each application was supported by letters from no fewer than 2 judges, 2 attorneys residing where the applicant had been engaged in practice, 2 clients and the applicant's local Bar Association, couched in terms of the highest commendation, both as to the applicant's character and ability. One former Justice of our Supreme Court, with personal knowledge of such letters, some time ago remarked that if the applicants for admission on motion in the Second Appellate District lived up to only one-half of the commendable things said about them in the letters filed in support of their applications, we would have both the "most learned and the most honorable Bar in existence."

It is no breach of confidence to say that it is no uncommon experience for a member of the Board of Bar Examiners after considering the record and personality of an applicant to say: "I vote to recommend this applicant, not that I desire to do so, but I feel the law requires me to do so."

If you conclude there is an existing problem in relation to the admission of attorneys in this state on motion, will you not consider whether such problem is peculiar to California? That it might be so was suggested to me from an examination of every report made to the American Bar Association by its Legal Section and the Committee on Legal Education during the five years last past. Not once was any

reference made to the admission of attorneys on motion.

You, no doubt, appreciate that California, with its rapid increase in population through emigration, may occupy a position in respect to this matter different from a large majority of other states. New York, Illinois and Michigan, and perhaps a few other states, may perhaps be similarly situated. It may be that no consideration has been given to this subject by the American Bar Association during the past five years because of the plan adopted by it in 1921 to raise the standards of legal education throughout the United States to a much higher plane. When the goal thus established has been attained, little difficulty will be encountered in establishing the requisite qualifications for admission to practice law on motion in any state. At best, this goal will not be reached for several years. If California does not change its pace in respect to the resolution adopted by the American Bar Association, the goal will never be reached in all the states. In the meantime this matter should be given most careful consideration.

In so considering this subject, we immediately meet the rule of comity. Considered in its technical sense, this rule probably has no application. Considered in a broad sense, and construing the word comity to mean courtesy to those states which admit California attorneys to practice on motion on the same terms as we admit such applicants, the rule of comity is applicable.

The basic idea of comity is reciprocity—Do unto others as others do unto you. This subject is discussed at length in a Wyoming decision (Union Sec. Co. vs. Adams, 236 Pac. 513; 50 A. L. R. 23), where an interesting note is found. We quote therefrom the following:

> "As a general proposition, I would extend this comity to every nation whose system of jurisprudence, and whose local vicinity, give assurance

that it will be reciprocated with fidelity and convenience."

"True comity is equality; we should demand nothing more and concede nothing less."

"We have reviewed most of the authorities which we have been able to find upon the subject at hand, and from this review it clearly appears that the principle of comity is throughout the civilized world based upon mutuality and reciprocity, and where it appears that no such reciprocity is extended, none is generally granted in return."

"We take it, it is not the duty of a court of this state to extend to a citizen of another state a right or privilege that would not be extended to one of our citizens in a matter of this kind."

In concluding the opinion, the writer says:

"If we should still continue to apply the principle of comity without reciprocity, we should not alone injure citizens of this state, whose protection is our first duty, but we should also, indirectly, encourage such unlawful removals and dishonest conduct."

Let us now ascertain, if we can, whether other states are extending or applying this rule of comity to attorneys seeking admission to practice on motion. If other states are not granting California attorneys the right to practice law upon the same terms and conditions that California grants such rights to attorneys from sister states, the rule of comity has no application, and should not influence us in our consideration of this subject.

I have carefully examined the West Publishing Company's Digest of the laws of every State in the Union and the District of Columbia covering the admission of attorneys on motion. It appears that California attorneys may be admitted on motion on the same terms as we admit attorneys from sister states in only six other states, to wit: Alabama, Idaho,

Montana, Oregon, Utah and Virginia. It seems unnecessary to give you further facts in order to enable you to form a just conclusion on this subject.

The principal points which render the rule of comity inapplicable to the State Bar of California, or to the courts of this State, arise out of the following facts:

California does not require residence, or any pre-legal education, of any applicant. Thirty states require not less than a high school course before becoming eligible for examination. Colorado requires one year, Nebraska and Ohio two years in a college. Other states have adopted similar requirements but have postponed the taking effect of such laws to certain definite dates in the future. Other states are now giving serious consideration to the adoption of similar rules. California is more lax in its requirements for admission to practice law on motion than any other state in the Union.

Assuming the subject involves a problem, and its solution is not hampered by any rule of comity, some consideration of its solution may not be amiss. The Bar of the State of California is now entering upon a period during which the public's eye will be centered upon it. In our advocacy of an incorporated Bar, we have been criticized as seeking a power to be used for selfish purposes. According to our energetic friend, Hugh Henry Brown, of the San Francisco Bar, the State has been called the "Lawyers' Soviet," "Brauman's Bund," "Pundit's Pact," and the "Trust-Busters' Trust." Heretofore the duty to determine the fitness of all candidates for admission to the Bar rested with the courts. It now rests upon the State Bar of California and the lawyers themselves—where the duty rests, there the responsibility lies.

It was stated previously when the goal set by the American Bar Association as to pre-legal education of candidates for admission to the Bar is reached,

little difficulty will be encountered in determining the qualifications of applicants seeking admission on motion. The problem arises through a lack on the part of the applicant of knowledge, both general and of the law, and a lack of character. The resolution adopted by the American Bar Association in 1921, in part, reads as follows:

"(1) The American Bar Association is of the opinion that every candidate for admission to the Bar should give evidence of a graduation from a law school complying with the following standards:

"(a) It shall require as a condition of admission at least two years of study in a college.

"(b) It shall require three years study of the law."

The other requirements I will not take time to quote. If you are not familiar with this resolution in its entirety, you should be. It must be admitted that compliance with this resolution will raise the average mental caliber of attorneys far above the present average.

Then comes the question of character. The day when a parent feels that the attendance of his child at a reputable college or university may weaken the child's character has passed. A reputable college or university is now recognized as a character builder.

At a largely attended convention of Bar Association delegates, representing Bar Associations from all over the United States, held in Washington, D. C. in 1922, the following statement was adopted as part of a resolution endorsing the resolution above mentioned, adopted by the American Bar Association, to wit:

"(7) We believe that the adoption of these standards will increase the efficiency, and strengthen the character of those coming to the practice of law, and will therefore tend to improve greatly the administration of justice."

"(9) We believe that adequate intellectual requirements for admission to the Bar will not only increase the efficiency of those admitted to practice, but will also strengthen their moral character."

Mr. Clarence N. Goodwin, Chairman of said conference, made the following statement:

"The recommendations now submitted for conference action, come to a body which during the last three years has made itself familiar with the conditions existing in the profession, recognizes the worth, competency and high character of lawyers generally, but knows the necessity for making this high standard of the greater part uniform throughout the profession; and making it certain that not merely a majority however large, but all of the profession shall attain to standards of fitness and worth that will make the word "lawyer" a guarantee of high character, learning and professional honor."

Hon. Silas Straun, then President of the American Bar Association, in speaking of this resolution, quoted Cardinal Newman, who said:

"The practical business of a university is training good members of society . . . college honor is the keenest in a community, and no higher ideals can be found on earth than in the best thought of our universities."

Mr. Straun, in speaking of his experience arising out of the examination of more than 400 applicants while he was a member of the Committee on character and fitness of candidates for admission to the Bar of the State of Illinois, said:

"It was our unfailing experience that the lack of ability to distinguish between right and wrong, and the failure to rise to the ideal of the profession, were most prevalent among those who did not have a college training."

Hon. Geo. B. Wickersham, formerly Attorney Gen-

eral of the United States, speaking at the conference of Bar Association delegates above mentioned, contrasted the advantage of college training over office training, and said:

> "After all, more important even than education, in the learning of the law, is the formation of character and the development of standards of personal and legal ethics which require no teaching or radical codes of conduct, but which develop an understanding knowledge of right and wrong, rendering impossible the toleration of any conduct that is not straight-forward and honorable."

The effect of two years of college work, followed by three years in an accredited law school, reaches further than the acquisition of knowledge. Such schooling is an influential factor in establishing character.

You who have a special interest in this subject will be aroused to greater activity if surrounded by the atmosphere which emanates from the articles appearing at page 482-591, Vol. XLVII (1922) of the Reports of the American Bar Association, and the journals of that Association, particularly of March, July and October numbers of the current year. The advocates of higher standards of legal education have met, and they will continue to meet opposition. As you consider this question, please remember that "minds are like parachutes, they function only when they are open."

The attainment of the ideal will not remedy any immediate needs. Such may in part at least be relieved by the adoption of a rule requiring the examining committee to examine each applicant as to both character and general fitness, regardless of his knowledge of legal principles.

New York and Chicago have Special Committees who conduct such examinations, and the results of the work they have done have proven the wisdom of

creating the committees. Men of the highest standing in each of these cities have served on these Committees. It may also prove beneficial to give the examining committee discretionary powers to examine any applicant as to his mental qualifications. A questionnaire worked out in considerable detail to be asked each applicant under oath may not be amiss.

We believe the law is a learned and an honorable profession. To keep it such and lead the public to so believe requires unselfish loyalty and great sacrifice of time and ability. Elevating the standards for admission to practice law is practicable and no doubt will prove efficient. Thereby we may be able to guarantee to the public that it is our aim that:—

> "All of the profession shall attain the standards of fitness and worth that will make the word 'lawyer' a guarantee of high character, learning, and professional honor."

The State Bar Annual Conventions were usually held at Del Monte, Coronado, Los Angeles, San Francisco or Lake Tahoe. I never missed a meeting until I became physically unable to attend.

I attended the Annual Convention of the State Bar held in Coronado. The lawyers of San Diego were our hosts. Various entertainment was arranged, including a golf game, with a silver cup as first prize. Instead of attending the afternoon session of the Convention, I went to the golf course and contested for the silver cup. The officers of the State Bar had, without my knowledge, arranged for a special recognition of my work in its behalf. A speaker was chosen to deliver the eulogy. At the conclusion of his delivery, he said, "Mr. Biby, stand up and take a hand." I was told the Eulogy was impressive and the "hand" loud and long.

That evening, at the dinner banquet, the awards were made to the winners of the golf trophies. I was much surprised and very pleased when the Chair-

man of the Committee asked me to come forward and receive the Silver Cup for having won the golf tournament.

CHAPTER XI

Family Life

I married Grace Raleigh Burnet on August 4th, 1910. She was a widow with a five-year-old daughter, Marjorie, whom I legally adopted in 1912. We made our home at 2307 Michigan Avenue in Boyle Heights, at that time a very select residential section of Los Angeles. My first wife died April 8th, 1951.

I now have eight grandchildren and three great-grandchildren. My family numbers twenty, including Grace's aunt, Grace R. Murdock, who lived with us for forty-three years. Gaydie, as she is lovingly called by her host of friends, is ninety-seven years old. We are planning the celebration of her one-hundredth birthday.

On February 7th, 1953, I married Archa Kilgore Arthur, the widow of Samuel Clyde Arthur, the best friend I have ever had. She has four children, Samuel Clyde Jr., Virginia Adeline Hubbert, James Preston and David Kilgore. She is a member of the Daughters of the American Revolution, Ebell Club of Los Angeles and Wilshire Presbyterian Church.

Samuel has two children, Beverly Ann and Marcha Louise. Virginia has five, Ron, Stephen, Larry and twin daughters Caroline and Christine. James has two, Susan and James P. Jr. David has twin boys, Randy and Tommy and Nancy.

It has been our custom at Christmas, Thanksgiving and Easter to entertain the members of both our families with more than forty present. These parties have been most enjoyable and will live in our memories forever.

Some interesting events have happened at these parties. At one, Nancy, aged three, was missing. After searching the house and yards, several of the adults started looking for her away from our home. As some of them walked toward busy, crowded Wilshire Boulevard, one-half block away, they saw two policemen approaching with Nancy between them, each holding one of her hands. She seemed to be enjoying the experience. They had seen her while touring their patrol car along the Boulevard. They got out of their car and asked Nancy her name and where she lived. She could not tell them, so they started to canvass the houses on Rimpau Boulevard where we were living. We were certainly glad about her safe return home. Her mother thought she should take a rest and put her to bed but Nancy did not like this.

At another party most of our guests were gathered around the pool in our backyard, looking at the goldfish. Tommy Arthur was standing on the rocks surrounding the pool under the big elm tree. He lost his balance and fell into the water. The bottom of the pool was very slick and each time Tommy crawled a foot forward, he slipped back two. His efforts to get out were comical. The laughter, especially Randy's, was too much for Tommy, and he cried. Finally his father helped him out. His wise mother had brought an extra suit. She took him upstairs, washed the slime off, dressed him in a clean dry suit and he came downstairs smiling.

When David was five years of age he attended kindergarten at Cahuenga School. His mother or grandmother accompanied him to and from school. His mother told us of the following incident. One day when she and David had gotten home, he whispered to her, "Ain't love grand?" He had met a pretty, vivacious girl and thought he was very much in love with her. When I now see David with love shining in his eyes as he looks at his family, it is not difficult to know that "Love is grand."

Unlike his Father, who liked hunting and golf, Sam loves fishing and often brings me delicious fresh fillets of fish for my breakfast. Sam's daughters are beautiful girls with long black curls. Joan, his wife, is a home-lover and devotes her time to the care of her home and family and to public interests.

James also likes fishing but gets more pleasure from taking his wife, Jane, and family on hikes and overnight trips to the mountains. He is very active in Boy Scout activities in the Pacific Palisades area and often takes large groups on overnight camp-outs.

Virginia is a homemaker and, with five children to care for and train to become successful men and women, perform her P.T.A. duties and keep up her club work, it leaves her little time for other activities. Her husband is Byron Hubbert. He is employed in the wholesale grocery business, in which he has succeeded.

Mrs. Biby's sons all served their country during World War II. James was in the Navy and was on U.S.S. Tulsa in Manila Harbor when Pearl Harbor was bombed. He served all through the duration and came out a Commander. Sam was with the Engineer Corps of the Army and helped with the occupation of Okinawa and the battle of Saipan as a sergeant. David was a Lieutenant in the Marine Corps and was also on Okinawa.

My son, John E. Jr., is Controller of the Douglas Aircraft Company's Long Beach plant. He is President of the Long Beach Chamber of Commerce; past president of the Rotary Club and engages in many public activities. He is an ardent sailor. He has a 32-foot P. S. sloop in which he takes his family to Catalina for the week-ends. His wife, Flora, and his daughters, Jody and Jill, are sailors also. Each of the girls has her own boat. All engage in the sailing races and they have many cups presented to them for winning.

John Jr. was a member of a crew that participated

in the Olympic Sailing Races when they were held outside of Los Angeles. The boat he was on was the Angelita, which won first place. John has a gold trophy presented to him as a member of the winning crew.

When he was a small lad, his mother often had to remove many small sail boats that he had made, before she could give him a bath in the tub. John's wife, Flora, has taken great interest in the success of her children. She spends much of her time sewing for them.

Janet loves her home and family. She lives on the edge of a canyon in Pasadena overlooking the Rose Bowl. She plans with her children to help them with their life's work. Her hobby is golf. In her best game she shot 89, which is an excellent score for one not a professional.

Janet's children love her very much. Janey is an exceptionally bright young lady. She is a student in a private school in Pasadena. Mathematics is her specialty. She may become a mathematics professor. Peter Donald, Jr. (Don) is also a student in a private school in Pasadena. When he returned home from his first day in this school, he told his mother he was going to be a candidate for the presidency of his class. She said to him, "Why, Don, you don't know any of your fellow students." He replied: "Well, I have been in school one day, haven't I?" He is mechanically inclined and likes golf. Caroline is a pretty, vivacious and very intelligent young lady. She is always ready to express her views on any subject and speaks and enjoys conversation with adults. Edward Emile (Ted) was born February 21st, 1958, just in time to get his name in this book. He is a handsome, well-shaped little fellow with bright dark blue eyes.

Peter, Janet's husband, is an attorney who has a splendid reputation, earned as an attorney for motion picture companies. He is now assistant to the Chief

Counsel of Warner Bros. Motion Picture Company.

Marjorie lives a happy-go-lucky life. She and her husband Jack enjoy company very much. A week seldom goes by that they do not entertain friends for dinner. She baby-sits with her granddaughters and enjoys it very much.

Jack is a successful doctor and is now Medical Director for the Los Angeles County Department of Water and Power.

They have two children, John S. Jr., and a daughter Sherry. John and his wife Nancy are the parents of a beautiful dark-eyed little girl, Nancy. Sherry is married to William (Bill) Hurt who is an investment counselor with Dean Witter and Company. They have two lovely blonde daughters. Kelly and Casey.

I love my children and their families and my wife's also. They give me much pleasure and I never tire of them.

CHAPTER XII

Genealogy

William Bibby—1598-1637

American ancestor of the Biby family, who landed at old Accomack Plantation on the "Eastern Shore" in Virginia in 1620, seven months before the Pilgrims landed at Plymouth Rock. In one of his many lawsuits (many for that period, 1622-24) he stated that he came from Western England.

The colonists on the ship "Swan", on which he came over in June 1620 were mostly "yeoman" farmers from West England, which term is generally used to designate Northwestern England.

The Biby family originated in Lancashire or Lancaster County, on the Irish Sea in Northwestern England, which originally formed part of the Medieval Celtic Kingdom of Strathclyde. On the final division of the Kingdom in 1124, the northern portion was annexed to Scotland, with England taking the southern portion in which the Bibbys have resided, since 1280, the strong probability being that they resided there before the division when its citizenry was 100 per cent Celtic (Scotch-Irish).

Liverpool and Manchester are the two principal cities of the county which is celebrated for the production of coal for commerce and the manufacture of linens, silk, wool, etc. It is the chief cotton goods manufacturer of the world. The county's population is over four million. Lancaster, the county seat, is located on the site of an ancient Roman camp. It was twice burned by the Scots in the 14th Century.

Lancaster County was a possession of the British

Royal family. After 1124 (the Duchy of Lancaster). John of Gaunt, fourth son of Edward III was made Duke of Lancaster in 1361, founder of the House of Lancaster. Henry IV, V, and VI were his descendants.

English records show:

Name	*Period*	*County*	*Parish*	*Village*
William Bibby	1280-1340	Lancaster	Standish	Coppull
Henry Bibby	1300-1365	"	"	"
Nicholas Bibby	1420-1479	"	"	"
Thomas Bibby	1545-1625	"	"	"
William Bibby	1598-1637	"	"	"

Old Lancaster records show "George Byby" (Bibby) of Coppull married Jenet Howorth, May 4, 1621. This was, no doubt, a brother or cousin of our own American ancestor, William Bibby, 1598-1637.

Other records show wills filed as follows:

Date Filed	*Name*	*Village*	*County*
1677	James Bibby	Coppull	Lancaster
1688	William Bibby	Worthington	Lancaster
1689	John Bibby	Coppull	Lancaster
1757	Matthew Bibby	Worthington	Lancaster
1759	William Bibby	Worthington	Lancaster
1808	John Bibby	Liverpool	Lancaster

The last entry, John Bibby, Liverpool, 1808, was a very prominent ship owner. His fleet of more than a dozen ships was one of the most prosperous engaged in English coast trade. His biographer claimed his descent from the Coppull, Standish Parish, Bibby.

Nine generations of the American Bibys, owned and "tilled" their own farms, which in no case was less than 400 acres in some instances nearly 4000 acres.

AMERICAN LINE

William Bibby—born 1598 Coppull, Standish Parish, Lancaster Co., England. Died 1637 "Eastern Shore" Virginia. Emigrated to Virginia on the ship "Swan," landed and settled at Accomack Plantation, June 1620, before the landing of the Pilgrims at Plymouth Rock. Married Mary (——) Bibby before leaving England. She did not join

him until the spring of 1636 arriving on the ship "Margaret & John." Their son Edmund, born the next year, was no doubt named for Sir Edmund Scarborough, with whom William Bibby was associated. He died on his original 400-acre farm which was located on the lower peninsula, next the farm of Captain William Epps with whom he was also long associated.

Edmund Bibby—born 1637 on the original American Bibby homestead granted William Bibby and wife Mary, deed for which is recorded in Book I, Volume I. First record of deeds in America. Inheriting much Virginia land from his father's estate, he later increased these holdings and at his death owned nearly 3000 acres of choice "East Shore" lands. He died on or about the year 1700 on his "Eastern Shore" estate with numerous descendants. Our next ancestor was—

Thomas Bibby—born 1660 on the Bibby Estate on the "Eastern Shore" of Virginia 1729. Our next immediate ancestor was—

Edmund Bibbe (Bibby)—born 1685 Goochland Co., Virginia, died 174-. Goochland Co., Virginia, Married Mary, October 1, 1709. Children—Esther, born November 16, 1710; Matthew, born January 19, 1712-13.

Matthew Bibbe (Bibby)—born January 1712-13, Goochland County, Va. Died 174... Rockbridge Co., Virginia. Left many descendants:

Alfred—married Ellen King
Alexander—married Ruth Kirkpatrick
Betsy—married Jefferson Smith
Sallie—married William Goodair
Polly Ann—married John Rentfro
Eliza Ann—married James Rentfro
Jane—married Julius Schlegel

Each of these 5 sons, 2 son-in-laws, and 3

grandsons, 10 in all, of this immediate family, answered President Lincoln's first call in 1861 and served throughout the Civil War.

Alexander Greene Biby—Born March 30, 1827, N. C. Died June 14, 1912, at Pinckneyville, Illinois. Civil War soldier, 1861-65, 13th Illinois Cavalry. Moved from St. Clair Co., Ill., to Franklin Co., Ill., with his parents, about 1840-45. Married Ruth, daughter of John and Edith Mulkey Kirkpatrick, Franklin Co., Ill., 1849. Their children in the order named were:

James Alexander—married Thurza Aiken
John Caswell—married Laura Gassaway
Elbert Wilson—married Elizabeth Ann Corder
Sarah Mellisa—single
Julius A.—married Emma Edwards

James Alexander Biby married Thirza Aiken. Their children were Edward, Caroline, Daisy, Robert and William.

John Caswell Biby married Laura Gassaway at Galatia, Illinois. Their children were Martha Caroline, 1878- ; John Edward, 1882- ; Mary Alice, 1887- , single; Frederic Alexander, 1890- ; Harry Caswell, 1894; Martha Caroline (Mattie) married, first: Rolla Cagle; second: George Clark; third: Frank Purcell. Her children were Ethel, Dan, and Flossie.

John Edward Biby married first: Grace Raleigh Burnet (1879-1951) on August 4, 1910; second, Archa Kilgore on February 7, 1953. His children are Marjorie Doris Stephens, 1906- , John Edward Biby, Jr., 1912- , Janet Elizabeth Knecht, 1917- . Marjorie married Dr. John S. Stephens in 1921. Their children are John S. Stephens, Jr., 1932- , and Sherry, 1934, John Jr. has a daughter Susan, 1954. Sherry's children are Kelly, 1954, and Casey, 1956.

John Edward Jr. married Flora Christina Morison in 1936. Their children are Jody, 1940, and Jill, 1942.

Janet Elizabeth married Peter Donnell Knecht in

1940. Their children are Janey Elizabeth, 1942, Peter Donnell, Jr., 1945, Carolyn, 1948, Edward Emil, 1958.

1854-1918—Elbert Wilson Biby. Born Mulkeytown, Franklin County, Illinois. Died Long Beach, California. Married Elizabeth Ann Corder, great granddaughter of Lewis Corder, Lewis Keaster and William Allen Reynolds, Revolutionary soldiers from North Carolina.

1876- —William Alexander Biby. Born Mulkeytown, Franklin County, Illinois. Married, first, Fannie Alice Bart, deceased, mother of Ernestine Biby; second, Edyth Edna (Terry) Cameron.

1877- —Charles Elbert married Martha Wilma Thomson, whose daughter is Ruth. Ernest Julius, single, 1883; Sarah Rosella, who married Clarence A. Jones and Edward, who married Marion Straugh. Beulah Beatrice married Walter Christopher Leming, their children were Beatrice Hope, Walter C. Jr., Edith Lucille, Alice Elizabeth, William Elbert and Edward Dean, 1890; James Howard married Floretta Faulkner.

Their sons are: James H. Jr. and Donald Keith; 1893.

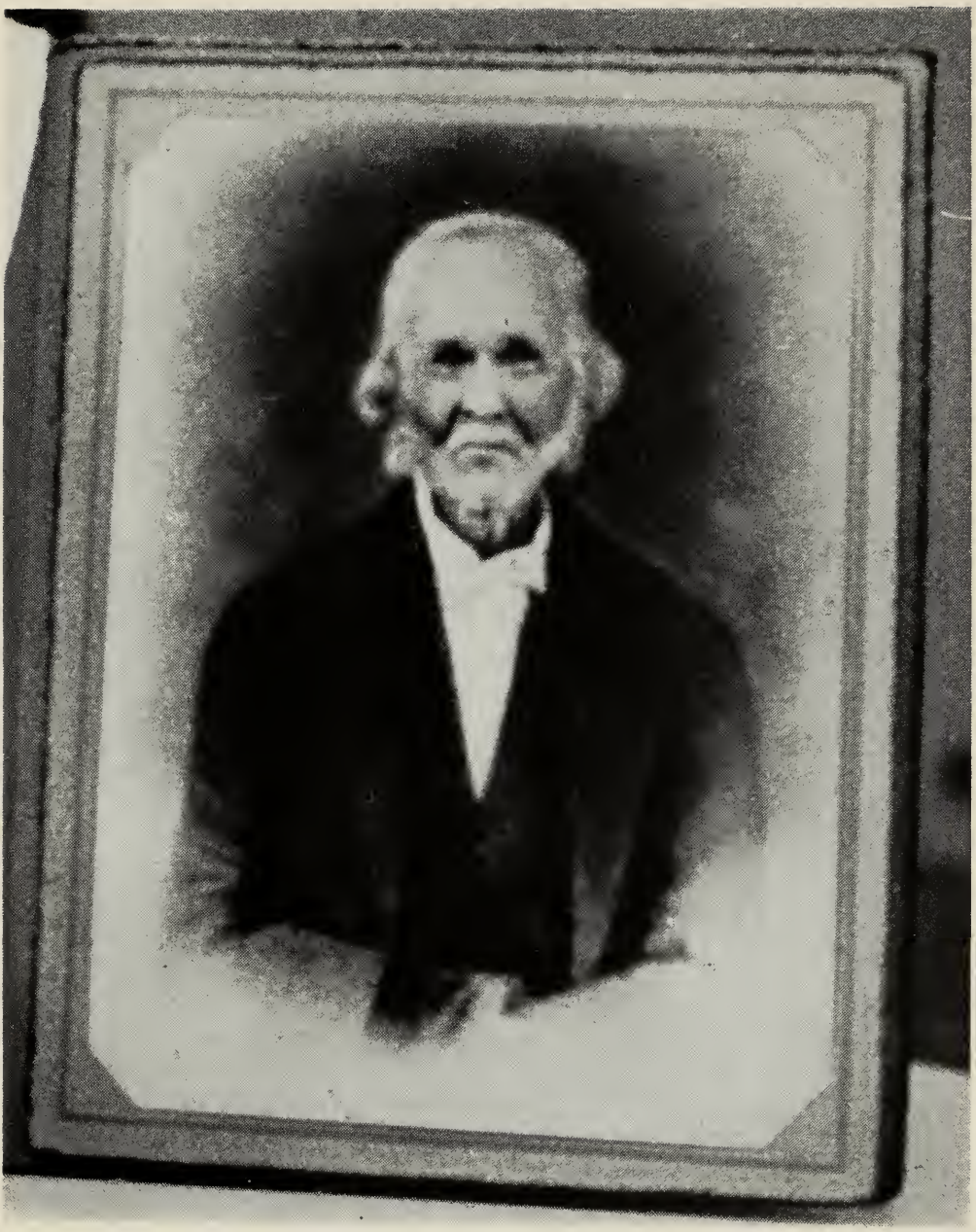
Elbert Wilson, Jr. married Ruth Halstead.

1897- — Ernestine Biby. Born Pinckneyville, Perry County, Illinois. Married Charles Edward McArthur I. They have one child.

Charles Edward McArthur II. Born Kansas City, Jackson County, Missouri in 1926.

I regret my son, John does not have a son. My branch of the Biby name will die with him. The name John Biby should endure for many generations. There are many Biby sons now living.

There are four John Bibys living. Myself, my son, John Jr., Fred's son, John and his son, John Jr. My father was John and one of my great grandfathers, after whom Father was named, was John Caswell Biby.



John Kirkpatrick

BOOK TWO

KIRKPATRICK FAMILY

CHAPTER I

Early Members

The known genealogy of the Kirkpatrick family dates back to the year 860 A. D. The first Kirkpatrick shown by any record was Donald Kirk-Patrick who was given a large estate by the King of Scotland in the year 860 A. D. for meritorious service and valor on the field of battle and also bestowed upon him a title. It is believed the building of Closeburn Castle was begun some years thereafter.

The first Kirkpatrick authentically shown by records was Yvonne Kirkpatrick, 1100 A. D., who was a descendant of Donald Kirkpatrick. Reverend John Kirkpatrick of East Tennessee is a national historical figure.

John Kirkpatrick was born May, 1741, in Watties Neach, Inverness, Scotland, came to America in 1750, with his parents, William and Margaret Kirkpatrick, and settled first in Lancaster County, Penn. He married Jane Wilkins of Lancaster County, Penn., in 1759, and settled in Augusta County (later Rockingham), Virginia. The following eight children were born there: David, Feb. 27, 1760; Marriah, Feb. 11, 1762, Hugh, Sept. 26, 1763; Rachel, March 1, 1765; John, Oct. 16, 1766; Jacob, Nov. 1, 1771; James, Aug. 23, 1773; Wilkins, Aug. 14, 1775, and the last and ninth child, Hannah Kirkpatrick, was born in East Tennessee on March 6, 1779.

In 1778, John Kirkpatrick and his family, accompanied by other pioneers, left Virginia and moved to the District of Watauga (now East Tennessee) and settled near Bulls Gap, Tenn., cutting the "Wil-

derness Road" through from Virginia to their pioneer settlement in the section. He took with him the first wagon which had ever been seen in that part of the country and in all probability the first four-wheeled vehicle West of the Allegheny Mountains. He filed for large bodies of public land and built and occupied a block-house, the site of which is yet marked by a mound, and he built the first Presbyterian meeting house "Salem" on the old Wilderness Trail near the Sulphur Springs on Bent Creek.

John Kirkpatrick was a man of character and standing in his day, was of Calvinist or Presbyterian faith and seems to have been the head of the pioneer community. The Kirkpatrick family is an illustrious one. It is known that the blood was Scotch-Irish. The women are noted for their virtue, good house-wifery and true hospitality; and all members of the family for their good humor but quick temper, and respect and reverence for things sacred. John was a member of the old Scotch Kirkpatrick family which dates to the time of Sir Roger Kirkpatrick whose deeds of valor are mentioned in "Scottish Chiefs." The name originated in 860 A.D. The first Kirkpatrick was Donald Kirkpatrick. This name was derived from the names of his parents, his father having been Thomas Kirk (Scotch) and his mother, Martha Patrick (Irish) and by combining the two, the hyphenated word "Kirk-Patrick" was coined and used for a long time, but the hyphen was finally dropped and one word "Kirkpatrick" took its place. For more than a thousand years the Kirkpatricks have held important places: Knights, soldiers, teachers, musicians, ministers, doctors, lawyers, judges, professors, editors, publishers, statesmen, princes, dukes, baronets, diplomats, and at least one Empress (Eugenie of France) who, for eighteen years, held a most conspicuous place in the history of the world.

John Kirkpatrick Monument

John Kirkpatrick Memorial

John Kirkpatrick fought with the North Carolina Troops during the Revolutionary War, and the War Department has furnished a Government monument for his grave. The original Limestone monument which has stood for 126 years has been preserved and consolidated with the Government stone and forms a combined monument nearly five feet high, 22 inches wide and 11 inches thick. The monuments were placed back to back and encased or framed with marble slabs, and the slab shows on one side "Hero Revolutionary War" and the American Flag unfurled, while the other has on it a very interesting historical sketch of the pioneer journey of John Kirkpatrick in 1778 from Rockingham County, Va., to East Tennessee. This memorial was unveiled and dedicated on Sunday, Sept. 18, 1938, the exercises being in charge of the Samuel Doak Chapter of the National Society of Daughters of American Revolution. The impressive service was attended by several hundred people.

John Kirkpatrick died March, 1812.

The descendants of this Revolutionary hero are legion and are scattered all over the United States.

The pioneer spirit seems to have been passed on to at least four sons of John Kirkpatrick as they scattered to the North, South and West.

David Kirkpatrick, the eldest son, married Catherine White and they had 12 children. At the age of 63 years, he and his sons built a large flat boat on the Holston River and after loading thereon their family possessions and provisions for the trip, they began their journey down the Holston River in the year 1823, bound for the distant West via the water route which included the Tennessee as well as the Ohio and Mississippi rivers. How they managed to get over Muscle Shoals no man knows—probably abandoning the first boat and making their way below the Shoals and continuing on another boat—however, when next we hear of him he was on the

Ohio river at Cairo, Ill., where he died and was taken ashore and buried in the wilderness, his exact burial spot being the site of Cairo, Ill. The wife and children continued their journey on the boat and landed and settled in Washington County, Mo. A number of these children finally settled in the distant state of California and were pioneers of note.

Hugh Kirkpatrick, the second son, married Ruth Samples and had nine children. This branch of the family settled on Holston River and erected and operated the first woolen mill in this section and it was water-powered and is still standing. John Kirkpatrick, the third son, pioneered to Kentucky and finally settled in Davidson County section of North Carolina, later Middle Tennessee.

Jacob Kirkpatrick, the fourth son, married Isabella White and settled on 1300 acres of the old Kirkpatrick estate. There were nine children in this family. It was on his estate that Longstreet's army camped during the War Between the States.

James Kirkpatrick, the fifth son, married Polly Ann Hill of Kentucky and their children numbered fourteen. He moved to the South in the early part of 1800 and established the Alabama branch of the family. His journey south was at a time when he had to cut out a road for more than 100 miles through uncharted forests before settling near Montgomery, Alabama. On the trip he rode horseback, the family in two carriages and the negroes in covered wagons. They were forced to stop in a Fort for several days because of Indians being on the warpath. He later moved southwest into Clarke County and finally north into Greene County and settled on Tombigee river. At a very early date, he and his son, Wilkins Madison Kirkpatrick operated steamboats to and from Mobile, Alabama.

Wilkins Kirkpatrick, the youngest son, married Sarah Hoskins and remained on the old Kirkpatrick estate. They had eight children.

Unfortunately, it is possible to give something definite on only one of the three daughters of the original John Kirkpatrick—Hannah Kirkpatrick, who married Alexander McDonald. They had eight children and from this branch has come a host of descendants bearing the McDonald name. This branch was also forerunner of the Haun family of East Tennessee, the descendants of "Magdillon" McDonald and Daniel Haun.

CHAPTER II

Sir Roger Kirkpatrick

Sir Roger Kirkpatrick was perhaps the most illustrious of all the Kirkpatrick clan. Jean Porter, in her book "Scottish Chiefs" often mentions him. The following narrative of events is a condensation of events, more fully told by Miss Porter, in which Sir Roger Kirkpatrick participated.

Sir William Wallace, a staunch supporter of the first king, Robert Bruce of Scotland, retired in seclusion with his bride who was Marion Braidfoot, the beautiful heiress of Lammington. Here Wallace was visited by Sir John Monteith who asked Wallace to accompany him to Douglass Castle, his home a few miles distant, to tell him a secret which could not be disclosed at any other place.

He then told Wallace that Douglass had entrusted to his care a small iron box with instructions to deliver it to the friar in charge of the monastery at Aberbrothick, which he had done, and that Douglass had been exiled from Scotland when Edward of England conquered it and, further, that Douglass had departed.

The box contained the holy-stone of Jacob, worshipped by Scotsmen, and also Douglass's Last Will and Testament, which were wrapped in a package with two letters, one of which read, as follows:

"Athol has persuaded Baliol to his ruin, and betrayed me into the hands of Edward. I shall see Scotland no more. Send the enclosed to my son at Paris; it will inform him what is the last wish of William Douglass for his country. The iron box I conveyed to

you, guard as your life until you can deposit it with my son. But should he remain abroad, and you ever be in extremity, commit the box in strict charge to the worthiest Scot you know and tell him that it will be at the peril of his soul who dares to open it until Scotland is free again. When that hour comes, then let the man by whose valor God restores her rights, receive the box as his own; for by him only is it to be opened. Douglass."

Sir John Monteith said to Wallace, "I am in 'extremity now' and you are the worthiest Scot I know. I want you to secrete this box in Ellenslie, Wallace's home, and deliver it to James Douglass when he returns from Paris."

Wallace took the box. On the way to Ellenslie, he saw two Scotsmen being assaulted by a horde of Edward's soldiers; he went to their rescue. In the melee that followed, Wallace killed Heselrigge, one of Edward's loyal supporters who was a nephew of Governor Heselrigge, whereupon Wallace was immediately attacked by the horde but managed to escape and reach Ellenslie and his wife Marion. He was pursued by a large body of Edward's soldiers who had vowed they would kill Wallace to avenge Heselrigge's death. Wallace fled with Marion, taking the box with him; he planned to hide it in an abandoned well near his house. He was followed by his friend, Lord Mar. His pursuers were so close, his plan failed. Wallace climbed a tree and hid himself in its foliage. Soon Edward's soldiers arrived and, not seeing Wallace, they heard a rustling sound in a tree and shot arrows into it. A large bird flow from its nest and the soldiers, believing the bird caused the noise they heard, departed. In the meantime, Lord Mar had lowered himself with the box into the well.

However, Edward's soldiers did find Marion and asked her to tell them where they could find Wallace and the box which they thought contained gold and valuable jewels. They told her they would kill her if she did not disclose this information. Marion

replied she would die before she would disclose the hiding place of Wallace and the box.

She was being questioned by Governor Heselrigge of Lenark who became so incensed at Marion's refusal that he drew his sword and slew her.

One of King Edward's soldiers was so infuriated when he saw Marion killed, he attacked Heselrigge with his sword and injured him but he was not killed. Knowing he would be put to death if he did not escape, he entered the Douglass Tower and took the body of Lady Wallace and interred it in a small chapel near Ellenslie. Departing from this burial, the soldier who had attacked Heselrigge hid close by. Searching for their friend, he found Lord Mar in the well and rescued him. Lord Mar had the box. Heselrigge thought it was Sir William Wallace he had rescued.

Lord Mar, realizing the soldier had mistaken him for William Wallace told him he was Lord Mar and asked the soldier to tell him where he could find Lady Wallace. The answer was a recital of her murder. Lord Mar realized his danger from his having attacked Governor Heselrigge and fled, carrying the box to the cave where Sir William Wallace had taken refuge.

Wallace vowed to avenge Marion's death. With 60 armed soldiers he went to Governor Heselrigge's palace and slew him in his bed where he was hiding under the covers. After this event, Wallace said he would devote his life to winning Scotland's freedom from English rule. Friends of Wallace, including Lady Mar, raised an army of several hundred men, 300 of whom were secured by Sir Robert Kirkpatrick. This small army joined Wallace and each man vowed he would support, unto his death, any plans Wallace made for the liberation of Scotland. Their first battle was to retake Stirling Castle where Lord Mar was held a prisoner by the Earl De Vallene. In this battle, Wallace was injured by a sword thrust into his side. The Castle was taken and Lord Mar and Helen, his

wife, were reunited. Sir Roger Kirkpatrick performed many feats of valor in this battle. After this battle, Wallace's army increased to 1200 men. Before Wallace's ambition was fulfilled he had fought and won five battles against the English. In two of these battles King Edward led his soldiers, who, in the fifth battle numbered more than 1000 men .By this time, all of Scotland's men who were able to fight were in Wallace's army, one division of which was under the command of Sir Roger Kirkpatrick. Twice King Edward offered to make Wallace, King of Scotland if he would disown Scotland and proclaim his allegiance to England. Wallace indignantly refused; however, he did agree to rule as regent of Scotland until the rightful heir to the throne, Robert Bruce, could be crowned King of Scotland.

When Wallace told his generals of King Edward's offer and of his refusal, Sir Roger Kirkpatrick spoke, saying, "I will eat my sword rather than see any other than Bruce, King of Scotland."

During this fifth siege against Edward, Wallace met young Robert Bruce who labored under many false beliefs against Wallace. Learning the true facts and that Wallace was the saviour of Scotland, he pledged allegiance to Wallace and fought bravely against Edward until his final defeat.

Edward, ever revengeful, continued in his effort to subdue Wallace. Twice he offered to make Wallace a king; first the King of Scotland, then the King of Ireland and, lastly, to give him refuge in England with a fortune of immeasurable value in lands, castles, jewelry and money. Wallace refused all these offers.

England's defeat placed Bruce on the throne. Wallace resigned his regency and a successor was chosen by the Scottish Lords. The new regent, believing Wallace had made a treacherous alliance with King Ferdinand of Spain, ordered Wallace to clear himself of the charge. Wallace steadfastly maintained his

innocence but was found guilty and he was executed in the Tower of London.

Sir Roger Kirkpatrick then vowed he would carry out Wallace's desire to place Bruce on the throne.

Bruce, deeply incensed by Wallace's execution, sought to avenge his death, which so enraged Red Comyn (Cummin) that he decided to kill him. The following quotation tells of the killing: "In an interview between them (Bruce and Red Comyn) in the church of the Minorite Friars at Dumfries, on Feb. 10, 1306, a quarrel took place, and Bruce stabbed Comyn with his dagger. Rushing out to his attendants (one of whom was Sir Roger Kirkpatrick), he exclaimed, it is said: 'I doubt I have slain the Red Comyn!' 'You doubt!' cried Sir Roger; 'I make sikker!' (i.e., sure), and running into the church with some others slew Comyn and his brother." (The new International Encyclopaedia, Vol. IV, Page 52).

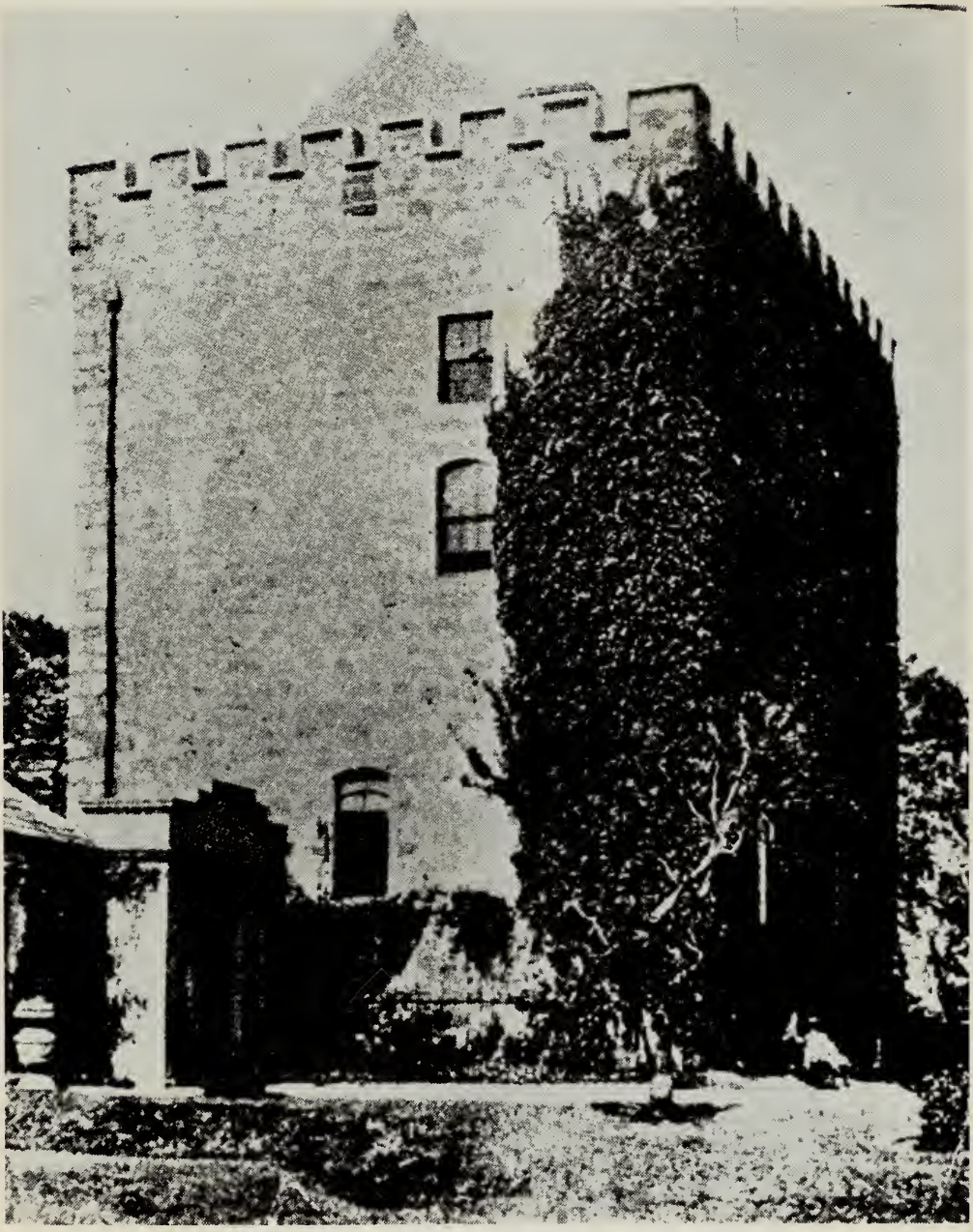
For his heroism, Sir Roger Kirkpatrick was knighted by King Robert Bruce. The Kirkpatrick family adopted as its coat of arms, two standing lions facing each other, holding a bloody dagger over their heads. For their motto, written at the bottom of the coat of arms, the words "I make sikker" which is the Scotch for "I make sure" referring to Sir Roger Kirkpatrick's words to King Robert Bruce when he entered the church to learn whether Red Comyn was dead.

The iron box was finally delivered to James Douglass. It contained no gold or jewels. Its contents were the stone of Jacob and his father's Will, leaving all of his estate to his son.

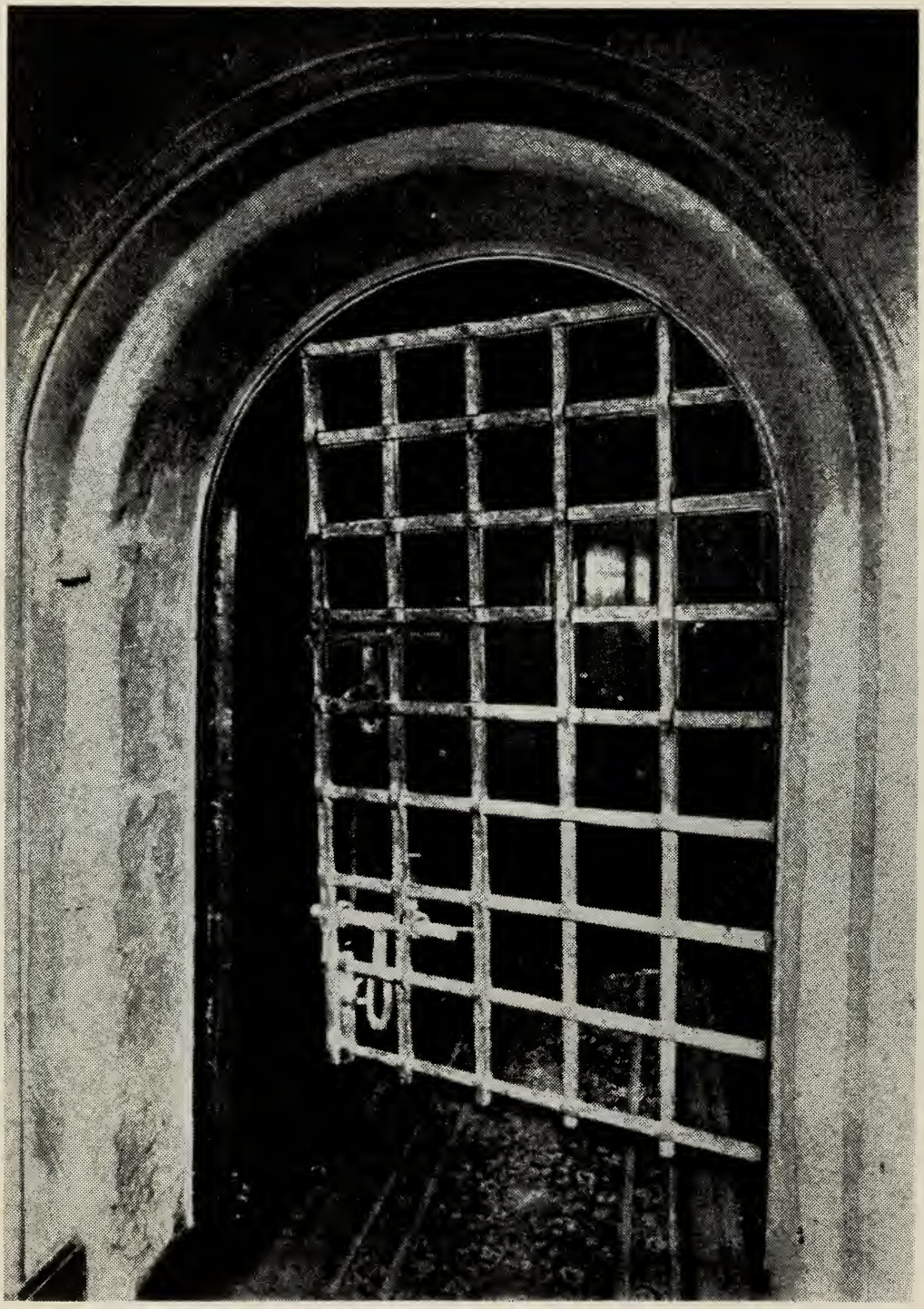
Had it not been for the events last above narrated about Sir Roger Kirkpatrick, he would not have been knighted nor would the Kirkpatrick family coat of arms or the motto be in existence. I have a framed copy of the coat of arms hanging on my library wall.

As one of the descendants of Sir Roger Kirkpatrick, I am appreciative of his valor and honorable career. He was my grandfather twelve times removed.

Kirkpatrick



Closeburn Castle



Gate to Closeburn Castle

Kirkpatrick Family Cemetery

CHAPTER III

Closeburn Castle

The first authentic record of the existence of this castle states it was built by Yvonne Kirkpatrick in the year 1100 A.D. It was destroyed by fire in 1748 but the tower was not burned and is now occupied by Yvonne Kirkpatrick, a descendant of the original Yvonne.

The following is a description of the castle:

The structure is a lofty quadrilateral tower, all vaulted, and is approximately forty feet wide, sixty feet long and fifty-six feet in height. The lower apartment a souterrain, the walls of which are about twelve feet thick, with a height of nine feet, and had no door, window or any kind of opening to the outside. It was provided with a well to supply water in case of a siege. The main hall was on the ground floor and surrounded by a wall nine feet thick. A door four feet wide could be reached by a draw-bridge. A heavy iron door or gate was made of pieces one and one-eighth inches square, which is still in existence and in good condition. This hall was probably the dining room. the guard chamber, and dormitory of the garrison, when invested with an enemy; a small turnpike stair, built in the wall, led to the principal apartment, for the Lord or Governor of the Castle. The fire was made in the middle of the floor, as there is only one stack of chimnies, which are in the centre of the building. The original windows were mere narrow slits on the outside, but widening inward at a sharp angle to permit use of bows and arrows. The third floor had walls six feet

thick and the same kind of windows, and consisted of two series of chambers, divided by oaken floors; and over them an arched roof crowns the building, which was covered with slate by the late Sir Thomas Kirkpatrick, who repaired and inhabited the tower after the mansion house was desroyed by fire in 1748. The ceilings were arched and supported by heavy timbers. The roof was surrounded by battlements which protected the arches,—a way, fenced with a parapet, goes round the top. On top of the roof was a watch tower. There was a beacon on Watchman Hill, two miles distant, and the light could be distinctly seen from the Castle. A code of signals could thus announce the coming of friend or foe at any hour day or night. The Castle was surrounded by a moat which could be flooded with water at any time. The location is on an elevated mound near the middle of a drained lake, which contained about four acres. The location of the Kirkpatrick estate so near the English border made it necessary to construct a fortress that could be depended upon. There is no escutcheon or armorial bearings on the Castle—an additional proof of its antiquity, as it is not probable the Lord of the Castle would have omitted placing his arms on some conspicuous part, had it been the custom so to do when it was erected. In all probability this wonderful piece of masonry dates back to the time of Donald Kirk-Patrick, the first Kirkpatrick of whom we have any record, but it is impossible to verify this in any way. We do know that Donald Kirk-Patrick was given a large estate by his King in the year 860 A. D. for meritorious service and valor on the field of battle and for saving the life of King Donald, who bestowed on him a Title, and it is thought that the building of Closeburn Castle was no doubt begun soon thereafter, however, the first published records we have are those covering Ivone Kirkpatrick in 1100 A. D. a descendant of the original Donald Kirk-Patrick.

In 1944, Rudolf Hess, who it was planned would be Hitler's successor, flew to the British Isles. He first landed in northern Scotland near the Closeburn Castle. He went to the Castle where he met Yvonne Kirkpatrick whose guest he was overnight. Later Hess fled to America and Sir Winston Churchill sent Yvonne Kirkpatrick as his personal envoy and Undersecretary of State to interview Hess and report to him, which Yvonne did.

CHAPTER IV

Kirkpatrick Genealogy

Before setting forth the Kirkpatrick Genealogy found in Burke's Peerage and Baronetcy (1936) I have found this ancestry extends further back to the year 730 A. D., beginning with Eachmund, King of Kent.

This ancestral line follows:

1.

Eachmund, King of England (Kent)
Born about 730 A.D. Died about 800 A.D. He had,

2.

Egbert, King of England (West Saxons)
800-836. He had,

3.

Aethelwulf, King of England (West Saxons) who reigned 836-858 and was also King of the Men of Kent. He had,

4.

Alfred or Aelfred the Great (848-901), King of England (West Saxons) from 871-901. He had,

5.

Edward, the Elder, King of England, 901-925. He had,

6.

Princess Edgiva who married, secondly, Henry Count Vermandois, and had,

7.

Hubert Count Vermandois and Troyes, who had,

8.

Lady Adela de Vermandois who married Prince Hugh the Great, Count Vermandois, son of King Henry I of France, and had,

9.

Lady Isabel de Vermandois who married (1096) Robert Baron de Bellamont, Earl of Mellent and Leicester, who had,

10.

Robert, Second Earl of Leicester (d. 1168), Justice of England, who had,

11.

Robert (d. 1196), third Earl of Leicester (Steward of England), who had,

12.

Lady Margaret de Bellamont, who married Saier Baron de Quincey of Bushly, created Earl of Winchester and who was one of the sureties for King John's Magna Charta (d. 1219), and had,

13.

The following is the Kirkpatrick Genealogy, as shown in Burke's Peerage and Baronetcy:

Tradition states that an ancestor of this principal family, as Nisbet calls it, possessed lands in Nithsdale in the beginning of the 9th Century, but the first of its members upon record is:

1.

Ivone Kirkpatrick, who lived at the time of David I, and is witness to a charter of Robert Brus, the elder, or first Lord of Annandale, and of his wife, Euphenia, granting the fishing of Torduff to the monks of Abbeyholm, which charter is undated, but the grantor died in 1141. The grandson of this Ivone,

2.

Ivone Kirkpatrick obtained a confirmatory charter of the lands of Closeburne from Alexander II, dated 15 August, 1232. He married the Lady Euphemia, daughter of Robert the Bruce, Lord of Annondale and Cleveland and was succeeded by his son,

3.

Adam Kirkpatrick, Lord of Closeburne, who was father of Stephen Kirkpatrick, Lord of Closeburne, styled in the chartulary of Kelso, in 1278,

"Stephanus Dominus Villae de Closeburne, Phillus et Heres Domini Ade de Kirkpatrick." He had two sons, Roger (Sir), his heir; and Duncan, who married Isabel, the daughter and heir of David Torthorwald, of Torthorwald. The elder son,

4.

Sir Roger Kirkpatrick of Closeburne was appointed by Edward I in 1304, justiciary of all Galloway. He killed the Regent in Dumfries 1306, and was sent on an embassy to England in 1314 with Sir Niel Campbell, of Lockow. He had two sons,

5.

Thomas (Sir) his heir, Roger (Sir) who took the castles of Durisdeer and Caerlaverock from the English in 1355. He was murdered in his bed in Caerlaverock Castle by Sir James Lindsay in 1357, leaving two sons,

6.

Winfred, heir to his uncle.

Yvone, who is named in a confirmation charter of Closeburne in 1409. He had a son, Stephen, also named in the same charter.

7.

Sir Roger Kirkpatrick was one of the first who stood up for King Robert the Bruce, as he was returning from striking Red John Cummin in the church of Dumphries. Sir Roger went into the church exclaiming "I'll make sikker" (i.e. sure), and then gave Cummin several stabs with a dagger, for which the family used a dagger for a crest, and for motto, "I'll make sure." Sir Roger was succeeded by his elder son,

8.

Sir Thomas Kirkpatrick of Closeburne, who was granted by King Robert Bruce, by charter dated at Lochmaben 4 Jan. 1319, the lands of Redburgh, county Dumfries, for his own and his father's special services. He had two daughters, his co-heirs:

9.

Elizabeth married Sir John Carlyle, ancestor of the Lord Carlyle,

10.

Margaret, who married John Henrysone of Glasgow, for which marriage there was a dispensation from Pope Clement VII. Sir Thomas, dying without male issue, was succeeded by his nephew,

11.

Winfred Kirkpatrick, of Closeburne, who was one of the hostages for the ransom of David II, king of Scots, the other hostage being John, son and heir of Walter, High Steward of Scotland. He had two sons,

12.

Thomas (Sir), who succeeded his father, made a bright figure in the Border annals of his time. He resigned his baronies of Closeburne and Redburgh, into the hands of Robert, Duke of Albany, Governor of Scotland, and got a new charter of tailzie to himself and his heirs male with several substitutions in favor of his brothers and nephews, dated at Ayr, 14 Oct. 1409. He d. s. p.

13.

Roger, who carried on the line. The 2nd son,

14.

Roger Kirkpatrick of Closeburne, succeeded his brother, was named in a charter dated 1445 and was a commissioner of West Borders 1455. He married, 1435, Margaret, daughter of Thomas, First Lord Somerville (by Janet, his wife, who was the daughter of Sir Alexander Stewart of Derneley), and had by her (who married secondly Sir Thomas Ker of Fernihirst, daughter of the Marquess of Lothian). They had:

1. Thomas (Sir), his heir,

2. Alexander, of Kirkmichael, who was granted the lands and barony of Kirkmichael, County Dumfries, as a reward for the capture of James, 9th

Earl of Douglas at Burnswark, in 1484. His grandson,

William of Kirkmichael sold a part of his estate to Sir John Charteris, about 1622. He died June 9, 1686 and was buried at Garrell Kirk. His grandson born in 1714, Alexander of Drumcondra, settled near Dublin. From him are descended the Kirkpatricks of Coolmine, of Donacumper, County Kildare, and of Craigs County Antrim.

1. Isabel, married Roger Grierson of Lag, who was fatally wounded in the battle of Sauchieburn in 1488. Roger Kirkpatrick was one of the gentlemen on the inquest serving William, Lord Somerville, heir to his Father, June 10, 1435. To the writ of service is appended the seal of Kirkpatrick exhibiting the arms, crest and supporters still borne by the family. He was succeeded by his elder son,

15.

Sir Thomas Kirkpatrick of Closeburne. He married Maria, daughter of Herbert, First Lord Maxwell, by Catherine, his wife, who was the daughter of Sir William Seton, of Seton, and had issue,

1. Thomas (Sir), his heir
2. Henry, who married Elizabeth Grierson, who was the daughter of The Laird of Lagg and had issue,
    1. Roger, heir to his cousin, of whom hereafter
    2. Samuel, of Auchinleck
    3. Alexander

Sir Thomas died in 1502 and was succeeded by his elder son,

16.

Sir Thomas Kirkpatrick of Closeburne, who married Maria Sinclair, who was the daughter of the Laird of Rosslyn, and had issue. He died 1513 and was succeeded by his only son,

17.

Thomas Kirkpatrick of Closeburne, served as heir to his Father in 1515. He was able to muster and

bring in to the field of battle 400 men, and was taken prisoner at the battle of Solway Moss in 1542. He had an only son, who was hostage for his kinsman Oliver Sinclair after that defeat. When he died, the estate passed to his cousin,

18.

Sir Roger Kirkpatrick of Closeburne, who married Lady Jean Cunningham, who was the widow of George Haldane of Gleneagles, who was the daughter of William, the 6th Earl of Glencairn and granddaughter of Alexander, the 5th Earl (by Lady Jane Hamilton, his wife, who was the daughter of James, 1st Earl of Aran, a granddaughter of James, 1st Lord Hamilton, by the Princess Mary, his wife, who was the daughter of James II, King of the Scots), and had issue. He was succeeded by his only son,

19.

Sir Thomas Kirkpatrick of Closeburne, who was a member of Parliament in 1593. He was married twice, the second time in 1614 to Barbara, who was the daughter of Sir Alexander Stewart, of Garlies. He had two daughters (Margaret who married Robert Erskine, and Susanna), and four sons, and by his first wife, name unknown, he had,

1. Thomas, his heir.
2. Thomas
3. John
4. George
5. Alexander of Barnmure.

Sir Thomas, who was gentleman to the privy chamber and was knighted by James VI, King of the Scots. He was succeeded by his elder son.

20.

Thomas Kirkpatrick of Closeburne, who was a member of Parliament from 1639 to 1641. He married Agnes, daughter of Sir John Charteris of Amisfield, by Lady Margaret Fleming, his wife, who was the daughter of John, 1st Earl of Wigton and had,

1. Thomas

2. John
3. Robert, his heir
4. Samuel
5. Roger
6. Charles, Captain in the Army

and

1. Margaret
2. Jean, married John Corsane, of Meikleknock
3. Janet
4. Barbara, married John Douglas of Sianehouse
5. Sarah.

The 3rd son,

Robert Kirkpatrick of Closeburne, succeeded his Father. He married Grizel, daughter of Sir William Baillie of Lamington, M.P. by Grizel, his wife, who was the daughter of Sir Claude Hamilton of Elieston, brother of the 1st Earl of Abercorn. He died about 1664, having had four daughters (who were: 1. Grizel, 2. Agnes, 3. Marian, 4. Jean) and several sons, of whom

1. Thomas (Sir), 1st baronet.
2. John of Apine

The eldest son,

21.

Sir Roger Kirkpatrick, first Baronet of Closeburne, M.P. of Dumfries, 1690-1702, was for his unshaken fidelity to Charles I, created a Baronet of Nova Scotia, on March 26, 1685. Sir Thomas married first on April 25, 1666, Hon. Isabel Sandilands, daughter of John, 4th Lord Torphichen, by whom he had one son,

1. Thomas (Sir), 2nd Baronet.

Sir Thomas secondly married on December 7, 1672, Sarah, daughter of Robert Fergusson, of Craigdarroch, by whom he had another son,

2. Roger, who died unmarried.

Sir Thomas married thirdly 1686, Grizzell, daughter of Gavin Hamilton of Raploch, and widow of—

Inglis. By her he had no issue; he was succeeded by his elder son,

22.

Sir Thomas Kirkpatrick, 2nd Baronet. He married first on February 18, 1691, Helenar, eldest daughter of Hon. William Stewart, of Ravenstone, and secondly, in 1702, Isabel, eldest daughter of Sir William Lockhart, baronet of Carstairs (by Lady Isabel Douglas his wife, who was the daughter of the 2nd Earl and sister of the 1st Duke of Queensberry), and by her he had issue,

1. Thomas (Sir) 3rd Baronet

2. James, who died unmarried at Calcutta

3. William, of Ailsland, who was born in 1705, M.P. for the Dumfries boroughs 1736-8. He was clerk of the Court of Session in 1738. In 1738, he married Jean, daughter of Charles Erskine, of Alva, who was Lord Justice Clerk (descended from John, Earl of Mar and Lady Mary, daughter of Esme, Duke of Lenox). He died May 22, 1778, leaving one son,

Charles Kirkpatrick Sharpe of Hoddom, County of Dumfries. He was born 1750. On August 22, 1770, he married Eleanora, daughter of John Renton of Lamerton, by his wife, Lady Susan Montgomery, who was the daughter of Alexander, 9th Earl of Eglinton. He died in 1813 leaving issue,

1. Matthew, born in 1774, Lt. General M. P. for Dumfries boroughs. He married Miss Hosea and died without issue in 1846.

2. Charles Kirkpatrick, born 1781, M. A. Christ Church, Oxford, the well-known Scottish antiquary. He died unmarried in 1851.

3. Alexander Renton, born 1785, Vice Admiral, R. N. He died without issue in 1860.

4. John William born 1793. He died unmarried in 1875.

(1) Susan, who married first James Floyer Erskine, brother of Mar. Secondly, on the 8th of August

1800, married Capt. William Walker, 8th Dragoons of Erdington Hall, Warwick; and 3rdly, on June 16, 1806, as second wife of Shirley Farmer Steele Perkins, of Sutton Coldfield, County Warwick.

(2) Jane, on June 7, 1804, married Sir Thomas Kirkpatrick, 5th Baronet.

(3) Eleanora, who died without issue.

(4) Isabella, who married George Orde.

(5) Elizabeth Cecilia, who died without issue.

(6) Grace Campbell, who in 1823, married Rev. William Riland Bedford, Rector of Sutton Coldfield, County Warwick. He died in 1875 leaving issue.

4. Abraham, born in 1707. He married at Malaga, Mary, daughter of Bernard Townsend, of Topsham. He died September 1777, leaving issue,

Elizabeth, who married in August 1768, as his 2nd wife, Robert Sherson, M.D., and died Jan. 18, 1771, leaving issue,

5. Robert, a merchant in Spain, was born in 1717 and died in 1781.

6. A son, born 1728, died Feb. 16, 1799, leaving a son,

William, English Consul at Malaga. He married Mlle. de Grivegne of Liege and by her, he had 3 daughters, one of whom, Maria Manuela, married Cipriano Cone di Montijo, and became the Mother of Eugenie, Empress of the French, and of the Duchess D'Albe, and died in November 1879.

7. Ann, who was born in 1707 and died May 22, 1787.

23.

The eldest son,

Sir Roger Kirkpatrick, 3rd Baronet born 1704. He married Susanna, daughter and heir of James Grierson of Capenoch, by whom he had with four daughters (vis., Isabella, who died October 17, 1777, having married in 1747, Robert Herries of Halldykes (who died October 3, 1791); Grizel, who married Hon. Robert Sandilands; Joan; and Christian), four sons,

1. Thomas.

2. James (Sir) 4th Baronet.
3. George.
4. William who married Isabella Irving, and had two daughters (Christian and Susan), one son,

John, Supreme Judge of the Ionian Islands. He married Jean Glass and had with her 9 daughters (vis., Annabella, Susan, Jane, Christian, Joanna, Margaret, Marian, Ellen, and Charlotte) and three sons,

(1) William (2) John.
(3) Thomas Maitland.

The mansion of Closeburne, built by the 1st baronet, partly with the materials of the old residence, of which he left nothing standing save the tower, was burnt to the ground on the night of the 29th of August 1748, and all the family papers, portraits, plate, were consumed. Sir Thomas died October 1771, and was succeeded by his son.

24.

Sir James Kirkpatrick, 4th Baronet. In 1771, he married Miss Jardine, and had four daughters (vis., namely, 1. Susan, born 1771; 2. Isabella, born 1772; 3. Jean, born in 1773; 4. Mary, born in 1775). He had two sons,

1. Roger born 1779; who married Lilias Anderson, of Stroquhan, and had with two daughters (Jane and Mary Lilias), four sons,

(1) James, M.D., who married and had issue.
(2) Robert, solicitor.
(3) Roger, who married and had issue.
(4) Thomas, E.I.C.S.

Sir James died June 7, 1804, and was succeeded by his eldest son,

25.

Sir Thomas Kirkpatrick, 5th Baronet, who was born in 1777. On June 7, 1804, he married Jane, daughter of Charles Kirkpatrick Sharpe, of Hoddom, county Dumfries and had issue,

(1) James, midshipman, R. N.
(2) Charles Sharpe (Sir) 6th Baronet.

(1) Eleonora, who married on April 26, 1826, Admiral Sir William J. Hope Johnstone, K. C. B. She died July 12, 1891, aged 85. He died July 11, 1878, leaving issue.

2. Mary Anne married Henry Lumsden of Clova, County Aberdeen, and died his widow on April 24, 1824, at age 84.

3. Margaret Hope, who married John Ord MacKenzie, of Dolphinton, N. B. and is deceased.

4. Charlotte, who married Henry Burn, and died October 23, 1892.

Sir Thomas died in 1844 and was succeeded by his son,

25. Sir Charles Sharpe Kirkpatrick, 6th Baronet. He was born in May 1811. On March 24, 1837, he married Helen Stuart, the daughter of Thomas Kirk, of Keir Mill, county Dumfries, and by her (who died September 29, 1877, had issue,

(1) Thomas (Sir) 7th Baronet.

(2) James (Sir) 8th Baronet.

(3) Roger, who was born September 21, 1842.

(4) Charles William Sharpe, who was born May 6, 1843.

He married Caterine, the daughter of C. B. Murch of Peckham, and died in 1908, having had issue,

His three sons were:

(1) Thomas; 2. Charles; 3. Samuel.

His daughters were:

(1) Jane; 2. Charlotte; 3. Barbara; 4. Frances.

5. Robert Herries, born June 10, 1848. He died in 1894.

6. Stewart, who was born April 30, 1851, and died February 2, 1924.

7. Arthur Renton, who was born October 10, 1852. On June 27, 1888, he married Emily Jane, the daughter of Frederick William Denny, and died December 13, 1922.

8. Yvone, who was born August 19, 1854. He died March 22, 1879.

(1) Jane, on June 24, 1863, married Thomas

Samuel Speck, C. E., who died in 1883. She died March 24, 1930.

(2) Charlotte Barbara, on November 2, 1868, married Captain George Edward Martin, Madras staff corps. He died June 17, 1873. She died September 7, 1904, having had issue,

Sir Charles died October 9, 1867, and was succeeded by his eldest son,

26.

Sir Thomas Kirkpatrick, 7th Baronet. He was born April 26, 1839. On October 23, 1866, he married Sophia Anne, daughter of William Blanton, of Frampton-on-Severn. She died on July 31, 1879. Sir Thomas died June 23, 1880, and was succeeded by his brother,

27.

Sir James Kirkpatrick, 8th Baronet. He was born March 22, 1841. On April 24, 1872, he married Mary Steward, youngest daughter of the late Charles John Fearnley of Peckham, Surrey, and by her (who died February 8, 19420), had issue,

1. Charles Sharpe (Sir) 9th and present Baronet.

2. Harry Fearnley, D.S.O. (1918) temp. lieut-col. R.N.D., late the Buffs, East Kent regiment and King's African Rifles. He served on the N. W. frontier of India in 1897-8 (medal with clasp), in British East Africa 1901 (medal with clasp), in Somaliland 1908-10 (clasp), and in Great War 1914 (despatches, three times, D.S.O.). He was born January 8, 1876. On December 15, 1914, he married Clara Agnes, only daughter of the late J. W. Alexander, I.C.S. He died March 27, 1918, of wounds received in action, leaving issue.

1. Yvone Alexander, who was born April 8, 1916. He died January 26, 1932.

2. James Alexander, heir presumptive, who was born October 24, 1918.

3. Yvone, Political Service, Nigeria, was born February 18, 1879. On June 9, 1917, he married Dorothy, youngest doughter of the late Montague

C. Barker, of Craven House, Hampton Court. He died March 31, 1924.

4. Athol, born September 20, 1885. In 1914, he married Ada Florence, daughter of late Alfred H. Allen of Sheffield, and was reported missing in France 1916, and thus presumed he died that year.

1. Josephine Mary, on April 30, 1901, married Cecil Egbert Jackson Castle, son of the late Captain C. T. Castle, 17th Regiment.

2. Margaret Hope, on July 5, 1899, married Wilfred Hamilton Stilgoe, and had issue,

Sir James, who died November 10, 1899, and was succeeded by his eldest son.

BOOK THREE

CHAPTER I

Mulkey Family

The name Mulkey was originally called "Mollkey." The first Mulkey in my ancestry was Eric Pallson Mulkey (1640-1720), my grandfather, seven times removed.

Ingelbord Helm, whose father, Captain Israel Helm, owned a fleet of sailing vessels and made many trips to America on behalf of Sweden, Holland and England, and who settled "New Amsterdam, Delaware" for the Swedish King, accompanied her father on one of his trips. Eric Pallson Mulkey was one of his crew on this trip. Eric and Ingelbord met, loved and married.

Their great-great-great-great granddaughter, Edith married John Kirkpatrick, a soldier in the Revolutionary War. Their daughter, Ruth married my grandfather Alexander Greene Biby.

I have a photograph of John Kirkpatrick, my great-grandfather. It is hanging on the wall of my bedroom.

Mulkeytown, now West Frankfort, Illinois, was named after my great-great grandfather Philip Mulkey I, (1775-1840).

CHAPTER II

Genealogy

A great part of the record of the Mulkeys of our line, most generally referred to them as residents of Edgecombe County, North Carolina. At the time the family first settled in this community and state (sometime between 1700 and 1717), it was known as the "Albemarle district", which was the first section of North Carolina developed under the rule of the "Eight Proprietors," who received their grant from Charles II in 1663.

In 1722 Bertie County was formed from a part of the Albemarle district and continued until 1735 as the home county of our ancestors. By that time, the growing population justified a division of the land into smaller parcels, which then placed the home plantation of Philip Mulkey I in Edgecombe County.

In 1758, a continual growing population resulted in further parceling, at which time Halifax County was created and included the Mulkey properties, referred to in the Will of Philip Mulkey I under date of December 17, 1736, and described as "my land lying on the fork of the Beaver Ponds" and, further, "my plantation on which I now dwell" in Edgecombe County.

Halifax County continued the home county of our branch of the Mulkey family until 1760 when Rev. Philip Mulkey II emigrated to South Carolina, where he first located and organized a Baptist congregation of about 100 souls in the month of August, 1760.

On December 13, 1762, they removed to Fair Forest, South Carolina, where they built a log church which

became in time the mother of all the churches in that part of South Carolina, including Congaree, Little River off Saluda, Lawson Fork, Catawba and Thikety.

In 1745, Philip Mulkey II was granted 300 acres of land in Edgecombe County, North Carolina. This was the home plantation which he inherited in the Will of his father, shown herewith. In a neighboring locality of the same colony, we find the Coxes, the Helms, the Keens, and Ellises. (See Vol. 4, page 769, Saunders' Colonial Records of North Carolina, as to land grant, and Wheeler's History of North Carolina as to emigrations from Pennsylvania and New Jersey).

The Rev. Morgan Edwards' History of the Baptists in South Carolina, written in or about 1773 (manuscript found in Bucknell Library, Crozin Theological Seminary, Chester, Pa.) says: "Rev. Philip Mulkey was born near Halifax on the Roanoke River, N. C., May 14, 1732. Bred a churchman (this would mean brought up in the Episcopal or Lutheran Church, the form of worship as well as the government of both being nearly the same), he embraced the principles of the Baptist Church, December 26, 1756, and the Ordinance administered by Rev. Shubel Stearns, Sandy Creek, North Carolina. He was called to the ministry in the Stearns church in February, 1757, ordained in the following October, at which time he took on him the cares of the church at Deep River, N. C., wherein he continued to 1760, when he and the aforesaid brethren immigrated to this part of the country and became their minister in 1760. They settled at Little River, off Broad River, South Carolina, which they incorporated in the month of August, 1760, and here they tarried two years and increased to about 100 members.

"December 13th, 1762, they removed to Fair Forest, S. C., and built a log meeting house. He has met with surprising success insomuch that this church is the mother of all the churches in this part of the country,

vis., of Congaree, Little River off Saluda, beside Lawson Fork, Catawba and Thikety.

"He married Ann Ellis, by whom he had children—David, Jonathan, Sarah, Phillip, Patty. David is married into the White family and the rest are single."

From the unpublished manuscript of Morgan Edwards' History of the Baptists in South Carolina, written in 1773: N. B.—"This Philip Mulkey seems to have been an active preacher, as he is mentioned by Edwards as having preached in several places in Virginia and North and South Carolina."

Benedict's History of the Baptists, Vol. 2, page 41, says: "Joseph Breed and Philip Mulkey followed Daniel Marshall to South Carolina in 1770." On page 137 of same: "Philip Mulkey, on Broad River, 1762, was known as a Separatist Baptist, and carried a letter to the Association at Charleston, proposing a union with the Regulars."

On page 155 of same: "In 1760 a number of Separatist ministers of Sandy Creek, N. C., began to travel and settle in South Carolina. Among them, Daniel Marshall and Philip Mulkey were the most prominent. Marshall settled first at Beaver Creek—subsequently Stevens' Creek—then crossed the Savannah River and settled in Georgia, where he died.

"Mr. Mulkey ministered at different places of the upper portion of this State (S.C.) and was very successful.

"In 1759, he, with Obediah Howard and wife, Joseph Breed and wife, (later grandparents of Nancy Howard whom Jonathon Mulkey married) Benjamine Gist and wife, Charles Thompson, Thomas Thompson and Rachel Collins, all members of Deep River church, N. C., established the first church at Broad River and chose Mr. Mulkey its minister. In 1762, the church had increased to a membership of 104, when he removed to Fair Forest, S. C., and with the original thirteen members and their families, formed a church with Mr. Mulkey as pastor, which

increased to 187 members. Some of the habitations were 100 miles apart.

"Beside the main establishment, there were four branches in the district.

"In 1781-3 Philip Mulkey is found in Tennessee under the following circumstances:

"An Englishman named Lyman, with his British friends, had laid siege and captured Natches. The Spaniards at this time controlled in Florida, and had claimed Natches and this portion of Tennessee as Spanish territory. Philip Mulkey and a large number of North Carolina, South Carolina and Virginia inhabitants, had made settlement in the same region.

"After the capture of Natches by Lyman, the Spaniards came out in force, recaptured Natches, and ordered all settlers out of the territory, or accept Spanish domination.

"Some of the settlers, preferring British to Spanish rule, took sides with the former; but Philip Mulkey and his friends, who had fought the British in Virginia, North and South Carolina, resolved to accept the rule of neither England or Spain, and successfully maintained their declaration against the British and Spaniards." (See Putnam's History of Tennessee, pp. 178 and 179).

That Philip Mulkey rendered service in the cause of American Independence during the war of the Revolution is vouched by the following:

"North Carolina,
Auditor's Department
Raleigh, June 30, 1899.

"This certifies that there appears upon the Revolutionary records of this State, the name 'Philip Mulkey' a soldier in the Revolutionary. Said name in 'Army Accounts Volume Six' on Payroll of Comptroller's office, North Carolina Militia. The said Philip Mulkey was in active service.

HALL W. AYER,
State Auditor."

The following refers to a son of Philip Mulkey whose name is made to appear as John Mulkey. It should doubtless have been Jonathan because he had no son John:

> "This certifies that there appears upon the Revolutionary record of this State, the name of John Mulkey, a soldier in the Revolutionary War. Said name appears on page 47 in Abstract of the Army Accounts of the North Carolina line, settled by the Commissions at Halifax and Warrenton in the year 1784 and 1785. The said John Mulkey was in Active Service.
>
> HALL W. AYER,
> State Auditor."

From Benedict's History of the Baptists, page 791: "Rev. Philip II died about 1801 in Tennessee. He appeared in the pulpit with his son, Rev. Jonathan, and his grandson, Rev. John, on the same day, the occasion being the observance of the funeral service on the death of ex-President George Washington, December 14, 1799, on which occasion Jonathan preached the funeral sermon."

Ann Ellis, the wife of Rev. Philip Mulkey II, was the daughter of Lieutenant-Colonel Robert Ellis, appointed from the Wilmington District (N.C.), 1775. (Wheeler's History of North Carolina, page 72) Doubtless, Richard Ellis, who was a member of the North Carolina Committee of Safety for Newburn District, was her uncle.

Jonathan, son of Philip and Ann (Ellis) Mulkey, was born in Halifax County, North Carolina, in 1752. He married Nancy, a daughter of Obadiah Howard and granddaughter of Joseph Breed, who were two of the organizers of the churches with Philip Mulkey in North and in South Carolina.

Rev. Jonathan Mulkey began preaching in South Carolina. In 1775 he, with William Reneau and others from Carolina and Virginia, emigrated to East Tennessee and organized the first Baptist Church in what is now Tennessee, on Boone's Creek. This church

was subsequently known as Buffalo Ridge and was located in what was then known as "Carters Valley" and was the first western-most English-speaking Colony established west of the Allegheny mountains in the United States. Rev. Jonathan Mulkey was assisted by six others in the establishment of this first permanent settlement in Tennessee. (See Benedict's History of the Baptists, page 791).

(See Rogers' Recollections of Men of Faith, page 224) "Jonathan was one of the most pious and influential preachers in East Tennessee and made a better mold of character in the Baptist Church than any other man in the state. He lived to enjoy in his old age the privilege of being associated with his father and his own son, Rev. John, in preaching in the same pulpit on the same day."

His children were: John, born at Fair Forest, North Carolina, in 1773; Isaac, who succeeded to the old homestead at Boone's Creek, Washington County, Tennessee (the church known as Buffalo Ridge); Rev. Philip III, born at Fair Forest in 1775; Nancy, who married a Billingsly; Rebecca, who married William Slaughter (her son, Elijah F. Slaughter, who resides at Hickman Mills, Missouri; he was born February 16, 1925); Elizabeth, who married John Murray; Sally, who married a Bayliss, first, and second, a Mars; and Mary, who married a Means.

His sons, John and Philip, were both preachers. "About 1801, John and Philip III emigrated to Kentucky and settled on Mill Creek about two miles from Tompkinsville. They soon obtained a success and great boldness in faith. It was here they builded with their own hands in 1808 what is now the oldest building in the State of Kentucky, the 'Mulkey Meeting House', this church was acquired some years ago by the state and is now maintained as a State Park. The building now 150 years old is probably the oldest Protestant church now standing in the entire Mississippi Valley Territory. In 1809 Rev. John Mulkey, preached a sermon at the house of William Sims on

the Cumberland River, from the 10th Chapter of John, and made a strong effort to establish Calvinism. His own argument convinced himself that the doctrine was false and caused him to 'express a change in his sentiments on unconditional election, and some other subjects.' This announcement created great confusion in the Mill Creek Church, and also through Stockton's Valley Association. He was charged with heresy and summoned to appear at the August meeting for 1809. Not finding him guilty, they agreed to call on five other churches for help in the next trial at the October meeting. After investigating the charge, the proposition was made—for all that justify Brother Mulkey, to raise their right hand." But as the majority was in his favor, no more could be done there than to call another meeting for the second Saturday in November.

In the November trial, John Mulkey proposed to "drop all disputes and bear with one another," but they replied, "Never, till you come back to the very ground from which you started." He then proposed a dissolution of the Church, to which all agreed, and so many as wished to continue on their old platform enrolled their names as "The Church."

But, John Mulkey and all that went with him in the division met together on the third Saturday in November, 1809, and after prayer, organized on the Bible alone—the Bible without human creed, confession of faith, or book of discipline.

After the start of the restoration, John and Philip Mulkey sowed the good seed broadcast over all the land, and, though the beginning was small, they soon prepared a great host for the consummate restoration of the first form, order, work and life of the Church, which was built on the "Rock," and, though it was small at the beginning, it is now very large. "It has begirt the earth around." (See pages 224-225, William C. Rogers' History of Men of Faith).

John Newton, son of Jonathan Mulkey, was born February 11, 1806, at or near Tompkinsville, Ken-

tucky. He was immersed by Samuel Dewhitt, married Nancy Laugh, of Kentucky, October 7, 1824, and began to preach in East Tennessee in 1831. His first effort was west of the Cumberland Mountain. His subject was "The Weekly Meeting of the Church to Break Bread," and was delivered in the summer of 1832 in the Liberty meeting house two miles west of the Wolf River, Clay County, Tennessee. He returned to Kentucky in 1833-34 and settled in Monroe County, Kentucky. He preached but little during the next four years, but for the next forty years gave himself almost wholly to the work and continued to labor as far as health would permit until his death, which occurred at Glasgow, September 26, 1882. It is estimated that during his ministry he made nearly 10,000 discourses and immersed nearly as many believers. At one meeting in Celina, Clay County, Tennessee, he immersed 105 persons in five days.

In 1856 he emigrated to Perry County, Illinois. After the death of his wife, he returned to Kentucky and settled in Glasgow, and at the end of eighteen months, he married Nancy Evans, who survived him. (See Rogers' Recollections, pages 225, 226, 277).

Judge John H. Mulkey, of Illinois, is a son of Dr. Isaac Mulkey, grandson of John Mulkey and great-grandson of Jonathan Mulkey. He was a lieutenant in Company K. Sixth Regiment, Illinois, during the Mexican War (Moses' History of Illinois, page 494) and was elected Supreme Court Judge of Illinois, June 4, 1888 (page 1148, same history).

Rev. Philip Mulkey III, son of Rev. Jonathan and brother of Rev. John, my great-great-grandfather, was born at Fair Forest, South Carolina, in 1775. Married Ruth O'Die. Their children were John Milton; Caleb Franklin; Jonathan Howard; William Tinsley; Sarah, who married a Stacy; Alice, who married a Tinsley; Rebecca, who married a Tinsley; Edith, who married John Kirkpatrick III, my great-grandfather; Ruth, who also married a Kirkpatrick, and Matilda, who was blind from childhood.

Rev. Philip Mulkey III entered the ministry on reaching the age of 18 years, about the same time as his brother, John, whom he accompanied to Kentucky about 1795, settling eventually two miles southeast of Tompkinsville, where he resided for some years, later returning to Tennessee. John remained permanently in Kentucky. Rev. Philip Mulkey III, with his wife, Ruth O'Die, later accompanied his daughter, Edith, and her husband, John Kirkpatrick III and others of his children and grand-children to Mulkeytown, Franklin County, Illinois, where he died and was buried in the "Old" Mulkeytown Cemetery. Philip was associated with John in the organization of the "Church of the Bible Alone" in 1809, and participated with him in establishing it upon a firm foundation.

John Milton Mulkey, son of Rev. Philip III, son of Rev. Jonathan, son of Rev. Philip II, son of Philip I, son of Stephen or John, sons of Erick, the emigrant, was born in 1806 in Jackson County, Tennessee. He married Matilda V. Scantlin and settled as a physician in Franklin County, Illinois, where he practiced successfully until his death in 1849. His wife was a native of Tennessee.

The children of Dr. John Milton Mulkey and Matilda (Scantlin) Mulkey were:

Camelia Ann, born in 1829, married Joe Burton, died in 1897.

William Fletcher, born in 1832, married Minerva Thompson in 1852, at Duquoin, Illinois.

Amanda Jane, born in 1835, married Samuel Bullock, died in 1886.

Adelia Emeline, born in 1838, married, first, William Bullock; second, J. W. Sprouse.

Philip Scantlin, born January I, 1843, married Julia Sanford, 1865, who died in 1872, having two children, Walter and John. He and his two sons now live in Colorado.

Augustus Lee, born in 1846, left home in 1864, never returned.

There has been a direct line of preachers in the Mulkey family in Virginia, North and South Carolina, Tennessee, Kentucky, Illinois, and Kansas, in the order named, for 200 years. Philip II, my great-great-great-great-grandfather, was a Baptist preacher in the Meheran Association of Virginia in 1756, 201 years ago, and his American progenitor, Erick Pallson (Philip) Mullica, baptized in the Mora Parish, Lutheran Church, Province of Helsingeland, Kingdom of Sweden, 320 years ago, and settled in Delaware and Pennsylvania 310 years ago.

CHAPTER III

Mulkey Genealogy

The following shows the Mulkey genealogy:

"1598-1675—CAPTAIN ISRAEL HELM. Born, Stockholm, Sweden—died, Fort Christiana, New Sweden (Delaware)—Ship owner and Master—For years in employ of Swedish, Dutch and British nations—Made many trips to New World (New Amsterdam 1618-1655)—Brought his family to New Sweden (Delaware) in 1651 in company with Colonel John Printz 3rd, Governor of New Sweden—In this party was also included ERIC PALLSON MOLLKEY, of a distinguished Swedish family, born 1636 at Parish of Mora, Province of Helsingeland, Sweden, died 1727 (Pennsylvania)—The deeds for the land purchased from the Indians in 1638, for the land afterwards known as "New Sweden" were examined and approved by CAPTAIN ISRAEL HELM prior to the Swedish immigration to America and are now in the archives in Stockholm.

1640-1720—INGELBORD HELM. Daughter of CAPTAIN ISRAEL HELM—Born, Stockholm, Sweden—Died, Fort Christiana, New Sweden (Delaware)—Married ERICK PALLSON (PHILIP) MOLLKEY (MULKEY) in 1662—INGELBORD HELM MULKEY is buried together with her husband (above) and her oldest son, STEPHEN MULKEY, in "Mulica" (Mulkey) Cemetery at Mulica, Pennsylvania.

1668-1740—STEPHEN MULKEY. Born, Fort Christiana, New Sweden (Delaware)—Oldest son of ERICK PALLSON and INGELBORD HELM

MOLLKEY (he was the first to adopt the present spelling of the name)—Buried at Mulica Cemetery, Mulica (Mulkey), Pennsylvania—Brothers and sisters included the following in the order named: Anna 1663, Helena 1665 (married George Keen), Stephen 1668, William 1674, Erick 1676, John 1678, Catherine 1683.

1690-1737—PHILIP MULKEY I.—Born, Fort Christiana, New Sweden (Penn.)—Married SARAH YARBOROUGH—Emigrated to North Carolina with uncles John and William Mulkey about 1717—Died, Edgecombe County (or Province), North Carolina, 1737—See his last will and testament herewith.

1732-1801—REV. PHILIP MULKEY II. Revolutionary soldier—Born, Edgecombe County, North Carolina—Died, Tennessee—Married ANN ELLIS, daughter of LT. COL. ROBERT ELLIS, North Carolina Minute Men, Revolutionary War.

1752-1830—REV. JONATHAN (JOHN) MULKEY. Revolutionary soldier—Born, Halifax County, North Carolina—Died, Tennessee—Married NANCY HOWARD, daughter of OBEDIAH HOWARD, a Revolutionary soldier of North Carolina.

1775-1840—REV. PHILIP MULKEY III.—Born, Fair Forest, South Carolina—Died, Jackson County, Tennessee—Married RUTH O'DIE.

1804-1838—EDITH MULKEY.—Born, Jackson County, Tennessee—Died, Mulkeytown, Franklin County, Illinois—Married JOHN KIRKPATRICK, son of JOHN KIRKPATRICK, a Revolutionary soldier with North Carolina troops.

1827-1893—RUTH KIRKPATRICK.—Born, Mulkeytown, Franklin County, Illinois—Died, Pinckneyville, Perry County, Illinois—Married ALEXANDER GREENE BIBY, grandson of THOMAS BIBY and LT. COL. MARTIN CASWELL, Revolutionary soldiers of North Carolina."

CHAPTER IV

Will of Rev. Philip Mulkey I

The Will of Rev. PHILIP MULKEY I is an interesting document, a copy of which is as follows:

"In the Name of God Amen: I, PHILIP MULKEY of Edgecombe Precinct within the Province of North Carolina being Sick and weak of Body but of Perfect Mind and Memory Thanks be to God for the Same, Do make My Last will and Testament in Manner and form following first and Principally I Give my Soul into the Hands of Almighty God that Gave it and my Body to the Earth to be Buried in a Decent and Christian Like Manner at the Discretion of my Executors hereafter Mentioned; in hopes of a Joyful Resurrection of the Same Through the Merits of my Blessed Lord and Saviour Jesus Christ.

"I Give and Bequeath to my Eldest Son DAVID MULKEY my land Lying on the ford of the Beaver Ponds with all the Rights and Priviledges that I Enjoy by Patent, to him and his Heirs for Ever; Together with all the Increase of one half of the Stock that Should belong to me upon the same it being put out upon half Stocks and also Two Negro Women Name Rose and Beck together with all their Future Increase & one Feather Bed.

"I also Give and Bequeath to my Second Son PHILIP MULKEY my Plantation on which I now Dwell with all the Land thereunto belonging to him and his Heirs for Ever & also one Feather Bed and Furniture.

"I also Give to my Eldest Daughter JANE Three Cows & Calves the Feather Bed on which She Com-

monly Lyes upon & one Horse Generally called Her's & one Mare in the Hands of Robert Lee.

"I also Give and Bequeath to my Second Daughter EVE two Cows and Calves & the Third Part of all my Pewter & one of Largest Sort of my Iron Pots & one Young Bay Mare.

"I also Give to my Daughter ELIZABETH one feather Bed furniture & another of the Largest Sort of Iron Pots and one Negro Woman Named Tamer & one fourth Part of all my Pewter & also Two Cows & Calves.

"I also give and bequeath to my Daughter SCARBOROUGH Two Cows and Calves one Young Gray Mare & one Flock Bed & Furniture.

"I also give and bequeath to my Daughter JUDITH Two Cows & Calves & one Two year old Gray mare & one Small Iron Pot.

"I also give and bequeath to my Son in Law GEORGE LEWIS one Small Pot & one heifer of Two years old.

"I also give and bequeath to my friend BUCKLEY KIMBROUGH Two Hundred & Twenty Acres of Land Lying in Plumtree Island he having bought & Paid me for the Same & has my Bond for Making over the Same.

"I also Give and bequeath to Friend JOHN HARDY one Hundred acres of Land Lying near Plumtree Island being Part of a Patent Granted to Robt Smith Bounded according to a Deed Given to the Said Hardy but not Recorded.

"I also Do hereby authorise and appoint my Executors hereafter mentioned to make over to NATHANIEL PYGOTT Eighty Acres of Land it being the Same on which he now Dwell at any Time after the Said Pygott Hath Paid for the same according to his Obligation.

INDEX

A

Addenda 152
Arthur Samuel Clyde 96
Arthur David Kilgore 96
Arthur Ginger 96
Arthur Nancy 96
Arthur Tommy 96
Arthur Randy 96
Arthur James P., Sr. 96
Arthur Jane 96
Arthur Susan 96
Arthur James P., Jr. 96
Arthur Samuel Clyde, Jr. 96
Arthur Joan 96
Arthur Beverly 96
Arthur Marcha 96

B

Biby Archa Kilgore 96
Biby Mary Alice 7
Biby Alexander Greene 19
Biby Ruth Kirkpatrick 18
Biby John Caswell 13
Biby Martha Caroline 7
Biby Harry Caswell 7
Biby John Edward 7
Biby John Edward, Jr. 98
Biby Flora Morison 98
Biby Jody Elizabeth 98
Biby Jill Elaine 98
Biby Elbert Wilson, Sr. 105
Biby William Alexander 105
Biby Charles Elbert 105
Biby Ernest Julius 105

Biby Elbert Wilson, Jr. 105
Biby James Howard, Sr. 105
Biby Donald Keith 105
Biby Grace Rita 96
Biby Sarah Melissa 104
Biby Julius Alexander 104
Biby James Alexander 104
Biby Thirza Aiken 104
Biby William 104
Biby Wilma 99
Biby Robert 104

C

Contents 7

G

Gassaway Thomas 22
Gassaway Martha Butler 22
Genealogies
Biby 101
Kirkpatrick 122
Mulkey 148

H

Hurt William H. 100
Hurt Sherry Stephens 100
Hurt Kelly 100
Hurt Casey 100
Hubbert Byron 96
Hubbert Virginia Arthur 96
Hubbert Ronald 96
Hubbert Stephen 96
Hubbert Larry 96
Hubbert Caroline 96
Hubbert Christine 96

I

Illustrations 3

K

Knecht Peter Donnell, Sr. 105
Knecht Janet Elizabeth Biby 105
Knecht Janey Elizabeth 105
Knecht Peter Donnell, Jr. 105
Knecht Caroline 105
Knecht Edward Emil 105
Kirkpatrick Sir Roger 114

M

Murdock Grace R. 96
Mulkey Rev. Philip I 137
Mulkey Rev. Philip II 128
Mulkey Rev. Philip III 142

Mc

McArthur Ernestine Biby 105
McArthur Charles Edward, Sr. 105
McArthur Charles Edward, Jr. 105
Monkhouse Carrie Biby 105

S

Stephens John S., Sr. 104
Stephens Marjorie Biby 104
Stephens John S., Jr. 104
Stephens Nancy (Mrs. John S., Jr.) 104
Stephens Nancy 104

T

Thompson Daisy Biby 104

BIRTHS

BIRTHS

BIRTHS

MARRIAGES

MARRIAGES

DEATHS

DEATHS

To Sharon with love
Uncle John